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R. DANIEL BOWEN  
JEREMY P. PISCA                      ANDREW P. DOMAN  
COMMISSIONERS

TITLES 55-57

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## PUBLISHER'S NOTE

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Amendments to laws and new laws enacted since the publication of the bound volume down to and including the 2014 regular session are compiled in this supplement and will be found under their appropriate section numbers.

This publication contains annotations taken from decisions of the Idaho Supreme Court and the Court of Appeals and the appropriate federal courts. These cases will be printed in the following reports:

Idaho Reports  
Pacific Reporter, 3rd Series  
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Title and chapter analyses, in these supplements, carry only laws that have been amended or new laws. Old sections that have nothing but annotations are not included in the analyses.

Following is an explanation of the abbreviations of the Court Rules used throughout the Idaho Code.

Idaho R. Civ. P.	Idaho Rules of Civil Procedure
Idaho Evidence Rule	Idaho Rules of Evidence
Idaho R. Crim. P.	Idaho Criminal Rules
Idaho Misdemeanor Crim. Rule	Misdemeanor Criminal Rules
I.I.R.	Idaho Infraction Rules
I.J.R.	Idaho Juvenile Rules
I.C.A.R.	Idaho Court Administrative Rules
Idaho App. R.	Idaho Appellate Rules

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## **USER'S GUIDE**

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To assist the legal profession and the layperson in obtaining the maximum benefit from the Idaho Code, a User's Guide has been included in the first, bound volume of this set.



# ADJOURNMENT DATES OF SESSIONS OF LEGISLATURE

Year	Adjournment Date
2013 .....	April 4, 2013
2014 .....	March 20, 2014





**TITLE 55**  
**PROPERTY IN GENERAL**

CHAPTER.

1. PROPERTY AND OWNERSHIP — GENERAL PROVISIONS, § 55-115.

CHAPTER.

15. CONDOMINIUM PROPERTY ACT, § 55-1505.

**CHAPTER 1**  
**PROPERTY AND OWNERSHIP — GENERAL PROVISIONS**

SECTION.

55-115. Homeowner's association — Prohibited conduct.

**55-101A. "Lands" defined.**

**JUDICIAL DECISIONS**

**Cited in:** *Ida-Therm, LLC v. Bedrock Geothermal, LLC*, 154 Idaho 6, 293 P.3d 630 (2012).

**55-115. Homeowner's association — Prohibited conduct.** — (1) As used in this section:

(a) "Homeowner's association" shall have the same meaning as in section 45-810(6), Idaho Code.

(b) "Board" means the entity that has the duty of governing the association that may be referred to as the board of directors, executive board or any such similar name.

(c) "Member" or "membership" means any person or entity owning or possessing an interest in residential real property or lot within the physical boundaries of an established homeowner's association.

(2) No fine may be imposed for a violation of the covenants and restrictions pursuant to the rules or regulations of the homeowner's association unless the authority to impose a fine is clearly set forth in the covenants and restrictions and:

(a) A majority vote by the board shall be required prior to imposing any fine on a member for a violation of any covenants and restrictions pursuant to the rules and regulations of the homeowner's association.

(b) Written notice by personal service or certified mail of the meeting during which such vote is to be taken shall be made to the member at least thirty (30) days prior to the meeting.

(c) In the event the member begins resolving the violation prior to the meeting, no fine shall be imposed so long as the member continues to address the violation in good faith until fully resolved.

(d) No portion of any fine may be used to increase the remuneration of any board member or agent of the board.

(e) No part of this section shall affect any statute, rule, covenant, bylaw, provision or clause that may allow for the recovery of attorney’s fees.

**History.**

I.C., § 55-115, as added by 2014, ch. 141, § 1, p. 385.

**CHAPTER 3  
RIGHTS AND OBLIGATIONS OF OWNERS**

**55-308. Removal of fixtures by tenant.**

**JUDICIAL DECISIONS**

**Fixtures.**

An irrigation system as a whole is not necessarily a fixture, but may be personal property. The court must assess objective in-

tent, annexation, and adaptation to determine intent. *Steel Farms, Inc. v. Croft & Reed, Inc.*, 154 Idaho 259, 297 P.3d 222 (2012).

**55-313. Relocation of access.**

**JUDICIAL DECISIONS**

**Relocation Improper.**

This section does not permit the relocation, or change of dimensions, of an easement for a driveway, where the change would clearly obstruct motor vehicle travel and injure the

owners of the easement, as they would require the construction of a new driveway across their front lawn. *Manning v. Campbell*, 152 Idaho 232, 268 P.3d 1184 (2012).

**CHAPTER 4  
PERSONAL PROPERTY**

**55-401. Conflict of laws.**

**RESEARCH REFERENCES**

**Idaho Law Review.** — Choice of Law in Idaho: A Survey and Critique of Idaho Cases,

Andrew S. Jorgensen. 49 Idaho L. Rev. 547 (2013).

**55-402. Transfer and devolution of things in action.**

**JUDICIAL DECISIONS**

**Legal Malpractice Claim.**

While legal malpractice claims are generally not assignable, such a claim is transferrable if it is transferred to an assignee in a commercial transaction, along

with other business assets and liabilities. *St. Luke’s Magic Valley Reg’l Med. Ctr. v. Luciani* (In re Order Certifying Question to Idaho Supreme Court), 154 Idaho 37, 293 P.3d 661 (2013).

## CHAPTER 6 TRANSFER OF REAL PROPERTY

### 55-604. Fee presumed to pass.

#### JUDICIAL DECISIONS

**Mineral Reservation.**

Deed’s reservation of “all the oil, gas, and minerals, in, on, or under the surface” of the land was ambiguous and, therefore, was construed against the grantor. The reservation to

the grantor therefore did not include geothermal resources on the property; rather, these passed with the deed to the grantee. *Ida-Therm, LLC v. Bedrock Geothermal, LLC*, 154 Idaho 6, 293 P.3d 630 (2012).

## CHAPTER 7 ACKNOWLEDGMENTS

### 55-710. Form of certificate.

#### JUDICIAL DECISIONS

**Cited in:** In re Davis, 2012 Bankr. LEXIS 197 (Bankr. D. Idaho Jan. 17, 2012).

## CHAPTER 8 RECORDING TRANSFERS

### 55-806. Power must be recorded before conveyance by attorney.

#### JUDICIAL DECISIONS

**Purpose of Recording.**

In property owner’s action challenging a non-judicial foreclosure action taken on the deed of trust securing a note on the subject property, the failure to record a power of attorney under this section did not invalidate a change in trustees of the note. The purpose

of the recording statutes is to provide notice to subsequent purchasers: the property owner was not a subsequent purchaser, and he was on notice of the change in the power of attorney status by other instruments that were recorded. *Purdy v. Bank of Am.*, 2012 U.S. Dist. LEXIS 140935 (D. Idaho Sept. 26, 2012).

### 55-812. Unrecorded conveyance void against subsequent purchasers.

#### JUDICIAL DECISIONS

#### ANALYSIS

Good faith.  
Mortgages.

**Good Faith.**

The words “good faith” in this section mean actual or constructive knowledge of a prior interest or defect in title. *Benz v. D. L. Evans Bank*, 152 Idaho 215, 268 P.3d 1167 (2012).

**Mortgages.**

In setting priority for competing deeds of trust, this section only voids a prior conveyance if (1) the subsequent conveyance was made in good faith and for valuable consider-

ation; and (2) the subsequent conveyance is the first duly recorded. The validity of a conveyance does not depend upon when it is recorded. *Insight LLC v. Gunter*, 154 Idaho 779, 302 P.3d 1052 (2013).

**Cited in:** *New Phase Invs., LLC v. Jarvis*, 153 Idaho 207, 280 P.3d 710 (2012).

### 55-813. Conveyance defined.

## JUDICIAL DECISIONS

### ANALYSIS

Mortgages.

Record as notice.

#### **Mortgages.**

In setting priority for competing deeds of trust, § 55-812 only voids a prior conveyance if (1) the subsequent conveyance was made in good faith and for valuable consideration; and (2) the subsequent conveyance is the first duly recorded. The validity of a conveyance does not depend upon when it is recorded. *Insight LLC v. Gunter*, 154 Idaho 779, 302 P.3d 1052 (2013).

#### **Record as Notice.**

A notice of default recorded by the trustee is

not a “conveyance” under this section; therefore, the alleged failure to record the power of attorney held by trustee for bank defendant does not invalidate the non-judicial foreclosure process by the bank defendants. It is the recording of the original deed of trust that provided notice of conveyance and a mortgage interest in debtor’s property to all subsequent purchasers and mortgagees. *Purdy v. Bank of Am.*, 2012 U.S. Dist. LEXIS 140935 (D. Idaho Sept. 26, 2012).

### 55-815. Unrecorded instruments valid between parties.

## JUDICIAL DECISIONS

#### **Unrecorded Conveyances.**

In property owner’s action challenging a non-judicial foreclosure action taken on the deed of trust securing a note on the subject property, the failure to record a power of attorney under § 55-806 did not invalidate a change in trustees of the note. The purpose of

the recording statutes is to provide notice to subsequent purchasers: the property owner was not a subsequent purchaser, and he was on notice of the change in the power of attorney status by other instruments that were recorded. *Purdy v. Bank of Am.*, 2012 U.S. Dist. LEXIS 140935 (D. Idaho Sept. 26, 2012).

## CHAPTER 9

## UNLAWFUL TRANSFERS

### 55-913. Transfers fraudulent as to present and future creditors.

## JUDICIAL DECISIONS

**Cited in:** *In re Hall*, 464 B.R. 896 (Bankr. D. Idaho 2012).

# CHAPTER 10 HOMESTEADS

## 55-1001. Definitions.

### JUDICIAL DECISIONS

#### ANALYSIS

Principal home of owner.  
Remainder interest.

#### Principal Home of Owner.

Bankruptcy debtor improperly claimed a homestead exemption in unimproved real property where, aside from filing declarations of abandonment and homestead, respectively, on her occupied home and the unimproved property, the debtor failed to show that the unimproved property was actually intended as her principal home. *Lynn v. Gugino* (In re Lynn), 2013 Bankr. LEXIS 5097 (9th Cir. BAP Dec. 2, 2013).

#### Remainder Interest.

Since a life estate constitutes an adequate ownership interest to establish a homestead under this section, then a fee simple remain-

der interest, already granted and awaiting only the eventual passing of the life tenant, is also sufficient. The homestead statutes contemplate an ownership interest in property with a corresponding monetary value that a debtor could claim as exempt; the fee simple remainder interest could be sold and thus had a monetary value. In re Thomason, 2013 Bankr. LEXIS 886 (Bankr. D. Idaho Feb. 19, 2013).

**Cited in:** In re Ashton, 2013 Bankr. LEXIS 321 (Bankr. D. Idaho Jan. 18, 2013); In re Johns, 504 B.R. 657 (Bankr. D. Idaho Jan. 7, 2014).

## 55-1003. Homestead exemption limited.

### JUDICIAL DECISIONS

#### ANALYSIS

Bankruptcy.  
Exemption denied.

#### Bankruptcy.

Since a life estate constitutes an adequate ownership interest to establish a homestead under this section, then a fee simple remainder interest, already granted and awaiting only the eventual passing of the life tenant, is also sufficient. The homestead statutes may be applied to any ownership interest in property with a monetary value; because the fee simple remainder interest could be sold, it had a monetary value that a debtor could claim as exempt. In re Thomason, 2013 Bankr. LEXIS 886 (Bankr. D. Idaho Feb. 19, 2013).

Trustee failed to meet his burden of showing that Chapter 7 debtors should not be allowed to include \$99,020 in equity that they had in their residence as part of a homestead exemption they claimed under this section. Wife debtor used part of the separate proceeds that husband debtor derived from selling his liquor license to pay down community debt that they owed on their residence after a

default judgment had been obtained against them. Although wife converted nonexempt property into exempt property when she made the payment, the evidence did not show that she did so with the intent to hinder, delay, or defraud the judgment creditor. In re Halinga, 2013 Bankr. LEXIS 5050 (Bankr. D. Idaho Nov. 27, 2013).

Idaho laws protect debtors' homestead property, no matter the size or the number of legal parcels, as long as that property is contiguous and used as a whole. In this case, the fact that a house on the middle parcel was rented out did not negate the exemption, since other buildings on that parcel were used in conjunction with the other two. In re Johns, 504 B.R. 657 (Bankr. D. Idaho Jan. 7, 2014).

#### Exemption Denied.

Chapter 7 debtor who owned a trailer, which he used as his residence while he worked in Nevada, was not allowed to exempt the value of the trailer, as his homestead,

from his bankruptcy estate, because the trailer was not his principal residence. The debtor rented an apartment in Boise, Idaho, where his wife and daughter lived while he was in Nevada, he returned to Idaho while he was not working in Nevada, he voted in Idaho, paid taxes in Idaho, and licensed all

his vehicles (including the trailer) in Idaho. In re Ashton, 2013 Bankr. LEXIS 321 (Bankr. D. Idaho Jan. 18, 2013).

**Cited in:** In re Van Schoiack, 2012 Bankr. LEXIS 295 (Bankr. D. Idaho Jan. 20, 2012).

## 55-1004. Automatic homestead exemption — Conditions — Declaration of homestead — Declaration of abandonment.

### JUDICIAL DECISIONS

#### ANALYSIS

Acknowledgment.  
Declared homestead.  
Exemption denied.  
Failure to abandon original homestead.  
Residential requirement.  
Termination of exemption.

#### **Acknowledgment.**

Because debtors' homestead declaration does not contain a sufficient acknowledgment, it does not satisfy the clear, statutory requirements to establish a homestead via declaration In re Davis, 2012 Bankr. LEXIS 197 (Bankr. D. Idaho Jan. 17, 2012).

#### **Declared Homestead.**

Debtors' vested remainder interest, coupled with their proper filing and recording of a declaration of abandonment of their present residence and a declaration of homestead as to the home in which they had a remainder interest, was adequate to establish a valid homestead exemption under this section. There is no requirement that the debtors reside in the property in order to claim the exemption. In re Thomason, 2013 Bankr. LEXIS 886 (Bankr. D. Idaho Feb. 19, 2013).

#### **Exemption Denied.**

Chapter 7 debtor who owned a trailer, which he used as his residence while he worked in Nevada, was not allowed to exempt the value of the trailer, as his homestead, from his bankruptcy estate, because the trailer was not his principal residence. The debtor rented an apartment in Boise, Idaho, where his wife and daughter lived while he was in Nevada, he returned to Idaho while he was not working in Nevada, he voted in Idaho, paid taxes in Idaho, and licensed all his vehicles (including the trailer) in Idaho. In re Ashton, 2013 Bankr. LEXIS 321 (Bankr. D. Idaho Jan. 18, 2013).

Bankruptcy debtor improperly claimed a homestead exemption in unimproved real property where, aside from filing declarations of abandonment and homestead, respectively, on her occupied home and the unimproved

property, the debtor failed to show that the unimproved property was actually intended as her principal home. Lynn v. Gugino (In re Lynn), 2013 Bankr. LEXIS 5097 (9th Cir. BAP Dec. 2, 2013).

#### **Failure to Abandon Original Homestead.**

If an owner with a valid exemption by declaration later wishes to take advantage of the "automatic" homestead in a newly established principal residence, he must first record a declaration of abandonment as to his homestead by declaration. Otherwise, lest the public be misled, the homestead by declaration continues in effect, and the second exemption is not established. In re Davis, 2012 Bankr. LEXIS 197 (Bankr. D. Idaho Jan. 17, 2012).

When debtors recorded their homestead declaration in 2000 for property that they owned in Shoup, they owned and occupied property in Montevue. While they recorded the homestead declaration, they did not record a declaration of abandonment for the Montevue property. Thus, they did not meet the specific technical requirements of this section and did not establish an exemption by declaration in the Shoup Property. In re Davis, 2012 Bankr. LEXIS 197 (Bankr. D. Idaho Jan. 17, 2012).

#### **Residential Requirement.**

Since a life estate constitutes an adequate ownership interest to establish a homestead under this section, then a fee simple remainder interest, already granted and awaiting only the eventual passing of the life tenant, is also sufficient. There is no requirement that the debtors currently reside in the property for which they are requesting the homestead exemption. In re Thomason, 2013 Bankr. LEXIS 886 (Bankr. D. Idaho Feb. 19, 2013).

**Termination of Exemption.**

There are several ways in which an established homestead exemption may terminate. First, a property owner may file a declaration of abandonment of homestead with the county recorder where a homestead is located. Second, a presumption of abandonment arises if a property owner vacates a homestead for a

continuous period of at least six months, and does not record a declaration of nonabandonment. Third, where a debtor claims a homestead exemption in property in which he is residing, Idaho's statutes limit the exemption to his principal residence. In re Davis, 2012 Bankr. LEXIS 197 (Bankr. D. Idaho Jan. 17, 2012).

**CHAPTER 15****CONDOMINIUM PROPERTY ACT**

## SECTION.

55-1505. Contents of declaration.

**55-1505. Contents of declaration.** — (1) The declaration shall contain the following:

- (a) A legal description of the surface of the ground within the project.
  - (b) A legal description of each unit in the project, which description may consist of the identifying number, symbol or name of such unit as shown on the plat.
  - (c) The percentage of ownership interest in the common area which is to be allocated to each unit for purposes of tax assessment under section 55-1514, Idaho Code, and for purposes of liability as provided by section 55-1515, Idaho Code. Such percentage shall be fixed either by taking as a basis the value of each unit in relation to the value of the property as a whole or by taking as a basis the square footage of the interior floor area of each unit in relation to the square footage of the interior floor area of all the units as a whole. For said purposes, the percentage so fixed shall be conclusive, subject only to clear and convincing proof of bad faith at the time of and in the making of such allocation or the last prior amendment thereof. If a substantial change is made to the value or size, depending upon the method used for allocation, of one (1) or more units as compared with other units, upon petition by a unit owner for reevaluation and allocation of percentage of ownership interest, the allocation shall be amended. Reallocation shall not occur more frequently than every five (5) years and, if square footage is used in determining the percentage of ownership interest, only if a substantial change is made to the size of at least one (1) unit. If the board of managers fails to act, reallocation may be accomplished by court action. If court action is necessary the prevailing party may be awarded attorney's fees and costs for unreasonable pursuit or refusal.
- (2) The declaration may but need not also contain any of the following:
- (a) A description of the buildings in the project, stating the number of stories and basements, the number of units and the principal materials of which they are or are to be constructed.
  - (b) A statement of the location of each unit, its approximate area, number of rooms, and immediate common area to which it has access, and any other data for its proper identification.
  - (c) A description of the common areas and facilities.

- (d) A description of any limited common areas and facilities, if any, stating to which units their use is reserved or the terms of applicable restrictions or limitations.
- (e) The value of the property and of each unit.
- (f) A statement of the purposes for which the building and each of the units are intended and restricted as to use.
- (g) Provisions as to the percentage of votes by the condominium owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage, taking, or destruction of all or part of the property.
- (h) Any or all of the provisions hereinafter referred to in section 55-1507, Idaho Code, as proper provisions of bylaws.
- (i) Provisions for the management of the project by any management body or bodies; for the voting majorities, quorums, notices, meeting dates, and other rules governing such body or bodies; and for recordation, from time to time, as provided for in the declaration, of certificates of identity of the persons then composing such management body or bodies, which certificates shall be conclusive evidence of the facts recited therein in favor of any person relying thereon in good faith.
- (j) As to any management body:
  - (1) For the powers thereof, including power to enforce the provisions of the declaration;
  - (2) For maintenance by it of fire, casualty, liability, worker's compensation and other insurance and for bonding of the members of any management body;
  - (3) For provision by it of and payment by it for maintenance, utility, gardening and other services; for employment of personnel necessary for operation of the project, and legal and accounting services;
  - (4) For purchase by it of materials, supplies and the like and for maintenance and repair of the project;
  - (5) For payment by it of taxes and special assessments which would be a lien upon the entire project or common areas, and for discharge by it of any lien or encumbrance levies against the entire project or common areas;
  - (6) For payment by it for reconstruction of any portion or portions of the project damaged, taken or destroyed;
  - (7) For delegation by it of its powers;
  - (8) For entry by it or its agents into any unit when necessary in connection with any maintenance or construction for which the management body is responsible;
  - (9) For an irrevocable power of attorney to the management body to sell and convey the entire project for the benefit of all of the owners thereof when partition of the project may be had under section 55-1511, Idaho Code, which power shall: (i) be binding upon all of the owners, whether they expressly assume the obligations of the declaration or not; (ii) if so provided in the declaration, be exercisable by less than all, but not less than fifty percent (50%), of the voting power of the owners in the project; (iii) be exercisable only after recordation of a certificate by those who



have the right to exercise such power of attorney that such power of attorney is properly exercisable under the declaration, which certificate shall be conclusive evidence of the facts recited therein in favor of any person relying thereon in good faith.

(k) Provisions for amendments of such declaration or the bylaws, if any, which amendments, if made upon the vote or consent of more than fifty percent (50%) of the voting power of the owners in the project, shall be binding upon every owner and every condominium whether the burdens thereon are increased or decreased thereby, and whether or not the owner of each and every condominium consents thereto.

(l) Provisions for independent audit of the accounts of any management body.

(m)(1) Provisions for assessments to meet authorized expenditures of any management body, and for a method for notice and levy thereof, each condominium to be assessed separately for its share of such expenses in proportion, unless otherwise provided, to its owner's fractional interest in the common areas;

(2) For the subordination of the liens securing such assessments to other liens either generally or specifically described.

(n) Provisions for the conditions upon which partition of the project may be had pursuant to this act. Such right to partition may be conditioned upon failure of the condominium owners to elect to rebuild within a certain period, specified inadequacy of insurance proceeds, specified damage to the building, a decision of an arbitrator, or upon any other condition.

(o) Provisions for restrictions upon the severability of the component interests in the property which comprise a condominium. Such restrictions shall not be deemed conditions repugnant to the interest created nor unlawful restraints on alienation.

(p) Such document, agreement or writing pertinent to the project or its financing as may be attached to, incorporated in or made an exhibit to the declaration and/or any bylaws.

(q) Such other provisions not inconsistent with this act as the owner or owners may deem desirable in order to promote, facilitate or preserve the property or the project or the use, development or administration thereof.

(3) Subsection (2) of this section shall not be construed as a limitation upon permissible contents and provisions of a declaration.

#### **History.**

1965, ch. 225, § 5, p. 515; am. 2002, ch. 78, § 1, p. 175; am. 2013, ch. 192, § 1, p. 473.

### **STATUTORY NOTES**

#### **Amendments.**

The 2013 amendment, by ch. 192, in paragraph (1)(c), inserted "either" following "fixed" near the beginning and inserted "or by taking as a basis the square footage of the interior floor area of each unit in relation to the square footage of the interior floor area of all

the units as a whole" at the end of the second sentence, inserted "depending upon the method used for allocation" in the fourth sentence, and substituted "five (5) years and, if square footage is used in determining the percentage of ownership interest, only if a substantial change is made to the size of at

least one (1) unit” for “three (3) years” at the end of the fifth sentence; and substituted “Subsection (2)” for “Subpart (2)” at the beginning of subsection (3).

**Compiler’s Notes.**

The term “this act” in paragraphs (2)(n) and (2)(q) refers to S.L. 1965, ch. 225 which is compiled as §§ 55-1501 to 55-1527.

## CHAPTER 25

### PROPERTY CONDITION DISCLOSURE ACT

#### 55-2504. Property condition disclosure required.

##### JUDICIAL DECISIONS

**Need for Disclosure.**

Summary judgment was properly awarded to sellers in an action by a buyer for violation of the Idaho property condition disclosure act, because the fact that the pavement running along the east side of the property was a

public right-of-way, rather than a private driveway, could not reasonably be considered a problem concerning the property that needed to be disclosed. *James v. Mercea*, 152 Idaho 914, 277 P.3d 361 (2012).

#### 55-2508. Disclosure form.

##### JUDICIAL DECISIONS

**Need for Disclosure.**

Summary judgment was properly awarded to sellers in an action by a buyer for violation of the Idaho property condition disclosure act, because the fact that the pavement running along the east side of the property was a

public right-of-way, rather than a private driveway, could not reasonably be considered a problem concerning the property that needed to be disclosed. *James v. Mercea*, 152 Idaho 914, 277 P.3d 361 (2012).

## CHAPTER 26

### SPORT SHOOTING RANGES

#### 55-2604. Definitions.

##### JUDICIAL DECISIONS

**Cited in:** *Hom v. Idaho Fish & Game Dep’t (Citizens Against Range Expansion)*, 153 Idaho 630, 289 P.3d 32 (2012).

#### 55-2605. Preemption of local authority — Noise standards — Zoning.

##### JUDICIAL DECISIONS

**Cited in:** *Hom v. Idaho Fish & Game Dep’t (Citizens Against Range Expansion)*, 153 Idaho 630, 289 P.3d 32 (2012).

**CHAPTER 30**

**UNIFORM ENVIRONMENTAL COVENANTS ACT**

**55-3004. Contents of environmental covenant.**

**RESEARCH REFERENCES**

<p><b>Idaho Law Review.</b> — The Enigma of Sales Taxation Through the Use of State or Federal “Amazon” Laws: Are We Getting Any-</p>	<p>where? Neal A. Koskella. 49 Idaho L. Rev. 121 (2012).</p>
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# TITLE 56

## PUBLIC ASSISTANCE AND WELFARE

### CHAPTER.

2. PUBLIC ASSISTANCE LAW, §§ 56-203E, 56-205, 56-227, 53-237 — 56-242, 56-255.
9. TELECOMMUNICATIONS SERVICE ASSISTANCE, §§ 56-901, 56-902.
10. DEPARTMENT OF HEALTH AND WELFARE,

### CHAPTER.

- §§ 56-1004A, 56-1012, 56-1024 — 56-1030.
14. IDAHO HOSPITAL ASSESSMENT ACT, §§ 56-1403, 56-1404, 56-1406.

## CHAPTER 2

### PUBLIC ASSISTANCE LAW

### SECTION.

- 56-203E. Lottery prize set-off procedure for support debt.
- 56-205. Issuance of SNAP benefits. [Effective not later than June 30, 2016.]
- 56-227. Fraudulent acts — Penalty.
- 56-237. Purpose.
- 56-238. Definitions.
- 56-239. CHIP Plan B.

### SECTION.

- 56-240. Children's access card program. [Repealed.]
- 56-241. Small business health insurance pilot program.
- 56-242. Idaho health insurance access card.
- 56-255. Medical assistance program — Services to be provided.

### 56-202. Duties of director of state department of health and welfare.

### JUDICIAL DECISIONS

**Cited in:** State v. Wiggins (In re Estate of Wiggins), — Idaho —, 306 P.3d 201 (2013).

### 56-203E. Lottery prize set-off procedure for support debt. —

(1) The Idaho state lottery shall immediately withhold, set-off and transfer prize moneys of a lottery prize winner to the department of health and welfare upon notification and verification from the department of health and welfare to collect a support delinquency. The set-off or withholding of a prize shall be final only after the following conditions have been met:

(a) A delinquency exists, which shall be defined as any unpaid child or spousal support including public assistance, pursuant to a court order from this state or a court or administrative order of another state.

(b) The department of health and welfare, bureau of child support enforcement, shall forward to the Idaho state lottery the full name and social security number of the obligor and the amount of the delinquent child support. The Idaho state lottery shall notify the department of health and welfare of the amount of the prize withheld to satisfy the child support delinquency and the prize winner's address.

(c) The department of health and welfare shall provide notice of the proposed set-off by registered or certified mail to the prize winner at the address provided to the Idaho state lottery. Within fourteen (14) days after such notice has been mailed (not counting Saturday, Sunday or state

holidays as the 14th day) the prize winner may file a protest in writing requesting a hearing before the department of health and welfare. The hearing shall be held within thirty-five (35) days from the date of the mailing of the original notice. No issues at that hearing may be considered that have been litigated previously. The department of health and welfare shall issue its findings and decision either at the hearing or by mail to the prize winner within ten (10) days of the hearing.

(d) After the decision of the department of health and welfare is issued, or if the prize winner has failed to file a timely protest of the claim, the set-off procedure shall become final.

(2) The proceeds from the set-off shall be credited to an account designated by the department of health and welfare, and notice shall be given to the appropriate clerk of the district court.

**History.**

I.C., § 56-203E, as added by 1990, ch. 153, § 2, p. 338; am. 2013, ch. 250, § 1, p. 608.

**STATUTORY NOTES**

**Amendments.**

The 2013 amendment, by ch. 250, in the introductory paragraph of subsection (1), substituted “immediately withhold, set-off and transfer prize moneys” for “withhold, and set-off a prize” and inserted “to the department of health and welfare” and “and verification” in

the first sentence, and substituted “final” for “completed” in the second sentence; and substituted “The department of health and welfare shall provide notice of the proposed set-off” for “Notice of the proposed set-off shall be sent” at the beginning of paragraph (1)(c).

**56-205. Issuance of SNAP benefits. [Effective not later than June 30, 2016.]** — (1) In each month that the state department or its authorized agent issues benefits under the supplemental nutrition assistance program (SNAP) to eligible persons, such benefits shall be issued over the course of not less than ten (10) consecutive days within the month.

(2) To reduce the burden on state general funds, any implementation costs incurred by the department under subsection (1) of this section shall be paid using SNAP performance bonus money if such money is received from the United States department of agriculture. If the department does not receive sufficient SNAP performance bonus money, state general funds shall be requested to implement the provisions of this act. This act is dependent upon ongoing operating and personnel appropriations.

**History.**

I.C., § 56-205, as added by 2014, ch. 322, § 1, p. 800.

**STATUTORY NOTES**

**Cross References.**

General fund, § 67-1205.

repealed by S.L. 1996, ch. 50, § 3, effective July 1, 1996.

**Prior Laws.**

Former § 56-205, Eligibility for public assistance, which comprised 1941, ch. 181, § 5, p. 379; am. 1974, ch. 233, § 3, p. 1590, was

**Compiler’s Notes.**

The term “this act” in subsection (2) refers to S.L. 2014, ch. 322, which is compiled as this section.

For further information on the supplemental nutrition assistance program (SNAP), see <http://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap>.

The abbreviation enclosed in parentheses so appeared in the law as enacted.

## 56-218. Recovery of certain medical assistance.

### JUDICIAL DECISIONS

#### Recovery from Spouse's Estate.

In an action in which the Idaho department of health & welfare sought to recover Medicaid benefits paid to a decedent's spouse, state law was not preempted by 42 U.S.C.S. § 1396p, because, based on the ambiguously inclusive nature of an "estate" as defined in 42 U.S.C.S. § 1396p(b)(4)(B) and the definition of "assets" in 42 U.S.C.S. § 1396p(h)(1), the department could recover assets from both spouses' estates under subsection (1) of this section, including a home which was previously the community property of the spouse, although it was not her property at the time of

her death. *Idaho Dep't of Health v. McCormick (In re Estate of George)*, 153 Idaho 468, 283 P.3d 785 (2012).

This section and federal law permit the department of health and welfare to recover medical payments, paid on behalf of now deceased wife, from deceased husband's estate, based on assets that had once been wife's community property, but had been transmuted into husband's separate property, for the purpose of making wife eligible for Medicaid. *State v. Wiggins (In re Estate of Wiggins)*, — Idaho —, 306 P.3d 201 (2013).

## 56-218A. Medical assistance liens during life of recipient.

### JUDICIAL DECISIONS

**Cited in:** *State v. Wiggins (In re Estate of Wiggins)*, — Idaho —, 306 P.3d 201 (2013).

**56-227. Fraudulent acts — Penalty.** — (1) Whoever knowingly obtains, or attempts to obtain, or aids or abets any person in obtaining, by means of a willfully false statement or representation, material omission, or fraudulent devices, public assistance to which he is not entitled, or in an amount greater than that to which he is justly entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance so obtained or attempted to be so obtained.

(2) Whoever sells, conveys, mortgages or otherwise disposes of his property, real or personal, or conceals his income or resources, for the purpose of rendering him eligible for public assistance, theretofore or thereafter applied for, to which he would not otherwise be entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance so obtained or so attempted to be obtained. Provided however, this provision shall not be construed to be more restrictive than federal or state provisions regarding the transfer of property for public assistance.

(3) Every person who knowingly aids or abets any person in selling, conveying, mortgaging or otherwise disposing of his property, real or personal, or in concealing his income or resources for the purpose of rendering him eligible for public assistance, theretofore or thereafter applied for and received, to which he would not otherwise be entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance so obtained or attempted

to be obtained. Provided however, this provision shall not apply to any person who communicates information or renders advice to another regarding federal or state provisions regarding the transfer of property for public assistance.

(4) For the purpose of this section public assistance shall include the specific categories of assistance for which provision is made in any federal or state law existing or hereafter enacted by the congress of the United States or the state of Idaho by which payments are made from the federal government to the state in aid or in respect to payment by the state for welfare purposes to any category of needy person and any other program of assistance for which provision for federal or state funds for aid may from time to time be made.

(5) The state department of health and welfare shall establish and operate a fraud control program to investigate suspected fraud relating to applications for public assistance benefits, and public assistance benefits received by individuals or entities. Such activities shall be those which do not fall under the authority of the medicaid fraud control unit as provided in section 56-226, Idaho Code. The department shall establish a procedure to coordinate information with prosecuting attorneys to prosecute offenders who commit fraudulent acts pursuant to this chapter.

**History.**

1941, ch. 181, § 24-c, as added by 1943, ch. 119, § 2, p. 228; am. 1974, ch. 233, § 9, p. 1590; am. 1981, ch. 194, § 1, p. 343; am. 1988,

ch. 246, § 1, p. 480; am. 2002, ch. 369, § 2, p. 1038; am. 2007, ch. 341, § 5, p. 1000; am. 2008, ch. 188, § 1, p. 592; am. 2013, ch. 143, § 1, p. 340.

**STATUTORY NOTES**

**Amendments.**

The 2013 amendment, by ch. 143, deleted “relief or federal aid assistance” following “public assistance” near the middle of subsection (1); in subsection (2), substituted “eligible for public assistance” for “eligible for any form of assistance” and inserted “public” following

“value of the” in the first sentence and added the last sentence; and, in subsection (3), substituted “public assistance” for “any form of public assistance or relief” and deleted “or relief” preceding “so obtained” in the first sentence and added the last sentence.

**56-237. Purpose.** — The purpose and intent of this act is to promote the availability of health insurance to children and families and to adults who are employed by small businesses in Idaho and their dependent spouses whose families’ modified adjusted gross incomes fall within one hundred eighty-five percent (185%) of the federal poverty guidelines.

**History.**

I.C., § 56-237, as added by 2003, ch. 308, § 2, p. 844; am. 2014, ch. 80, § 1, p. 218.

**STATUTORY NOTES**

**Amendments.**

The 2014 amendment, by ch. 80, inserted “modified adjusted” preceding “gross incomes”.

**Compiler’s Notes.**

The term “this act” refers to S.L. 2003, ch. 308, which is codified as §§ 41-406 and 56-236 to 56-242.



**56-238. Definitions.** — As used in sections 56-236 through 56-242, Idaho Code:

(1) “CHIP Plan A” means the existing Idaho children’s health insurance program for children eligible under federal title XXI whose families’ modified adjusted gross incomes do not exceed one hundred fifty percent (150%) of the federal poverty guidelines.

(2) “CHIP Plan B” means the program created in section 56-239, Idaho Code.

(3) “Department” means the state department of health and welfare.

(4) “Director” means the director of the state department of health and welfare.

(5) “Eligible adult” means a person:

(a) Over eighteen (18) years of age living in Idaho;

(b) Whose family’s modified adjusted gross income is less than one hundred percent (100%) of the federal poverty guidelines;

(c) Who is employed full time by a small employer, meaning an employer with two (2) to fifty (50) employees and as such term is defined in section 41-4703, Idaho Code, and who is eligible for health insurance coverage under a small employer health benefit plan regulated under chapter 47, title 41, Idaho Code, or the dependent spouse of such employee; and

(d) Who does not qualify for comparable or greater assistance through other federal or state health insurance or premium assistance programs.

(6) “Eligible child” means a child under nineteen (19) years of age living in Idaho whose family’s modified adjusted gross income falls within federal poverty guidelines for medicaid, CHIP Plan A or CHIP Plan B.

(7) “Health benefit plan” means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or managed care organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker’s compensation or similar insurance, automobile medical payment insurance or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(8) “Modified adjusted gross income” means individual or family income as defined for state medicaid programs in the social security act and the Internal Revenue Code.

(9) “Small business health insurance pilot program” means the program created in section 56-241, Idaho Code.

**History.**

I.C., § 56-238, as added by 2003, ch. 308,

§ 3, p. 844; am. 2006, ch. 270, § 1, p. 839; am. 2014, ch. 80, § 2, p. 218.

**STATUTORY NOTES**

**Amendments.**

The 2014 amendment, by ch. 80, inserted “modified adjusted” preceding “gross” and “state” preceding “department of health and

welfare” throughout the section; deleted former subsection (1), which read: “Children’s access card program” means the program created in section 56-240, Idaho Code”, and re-

designated the subsequent subsections accordingly; in present subsection (5), substituted "less than one hundred percent (100%)" for "equal to or less than eighty-five percent (85%)" in paragraph (b) and added paragraph (d); and inserted present subsection (8).

**Federal References.**

Federal title XXI, referred to in subsection (1), is codified as 42 U.S.C.S. § 1397aa et seq.

**56-239. CHIP Plan B.** — (1) There is hereby created in the department a CHIP Plan B that shall be made available by the department to eligible children, as defined in section 56-238, Idaho Code, whose family's modified adjusted gross income is between one hundred fifty percent (150%) and one hundred eighty-five percent (185%) of the federal poverty guidelines. The director shall implement the program by adopting rules recommended by the board of the Idaho individual high risk reinsurance pool created in section 41-5502, Idaho Code, that authorize policies of health insurance for children enrolled in the CHIP Plan B.

(2) There is hereby created a CHIP Plan B advisory board which shall advise the Idaho individual high risk reinsurance pool board concerning issues related to the CHIP Plan B. The board shall consist of eight (8) members, four (4) members to be appointed by the director and four (4) members to be appointed by the governor. At least two (2) members of the board shall be parents of children who are eligible to participate in the CHIP Plan B.

**History.**

I.C., § 56-239, as added by 2003, ch. 308, § 4, p. 844; am. 2014, ch. 80, § 3, p. 218.

**STATUTORY NOTES**

**Amendments.**

The 2014 amendment, by ch. 80, inserted "individual" preceding "high risk reinsurance

pool" throughout the section and inserted "modified adjusted" preceding "gross income" in the first sentence in subsection (1).

**56-240. Children's access card program. [Repealed.]**

Repealed by S.L. 2014, ch. 80, § 4, effective July 1, 2014.

**History.**

I.C., § 56-240, as added by 2003, ch. 308, § 5, p. 844; am. 2006, ch. 270, § 2, p. 839.

**56-241. Small business health insurance pilot program. —**

(1) There is hereby created in the department a small business health insurance pilot program that shall be made available for up to one thousand (1,000) eligible adults, as defined in section 56-238, Idaho Code, based on available funding. The director shall implement the program by adopting rules recommended by the board of the Idaho individual high risk reinsurance pool created in section 41-5502, Idaho Code, providing for the payment of the benefit authorized in subsection (2) of this section through the use of the Idaho health insurance access card.

(2) The small business health insurance pilot program shall, through the

Idaho health insurance access card program, pay to the insurance company providing insurance coverage through policies regulated under chapter 47, title 41, Idaho Code, for an adult enrolled in the small employer health insurance pilot program, for each month the insurance coverage is in effect, a one hundred dollar (\$100) payment to be applied to the monthly insurance premium billed each month by the insurance company.

(3) Participation in the small business health insurance pilot program by any employer shall be optional. Nothing in sections 56-236 through 56-242, Idaho Code, shall be construed to mandate or require that an employer participate in the pilot program. Small employers who choose to participate in the small business health insurance pilot program shall meet insurance carriers' contribution and participation guidelines.

(4) There is hereby created a small business health insurance advisory board which shall advise the Idaho individual high risk reinsurance pool board concerning issues related to the small business health insurance pilot program. The board shall consist of eight (8) members, four (4) members to be appointed by the director and four (4) members to be appointed by the governor. At least four (4) members of the board shall be representatives of small businesses, meaning those with two (2) to fifty (50) employees, that offer employee health benefit plans regulated under chapter 47, title 41, Idaho Code.

(5) The department shall limit assistance under the small business health insurance pilot program to those who do not have access to comparable or better coverage under other federal or state programs.

**History.**

I.C., § 56-241, as added by 2003, ch. 308, § 6, p. 844; am. 2006, ch. 270, § 3, p. 839; am. 2014, ch. 80, § 5, p. 218.

**STATUTORY NOTES**

**Amendments.**

The 2014 amendment, by ch. 80, inserted "individual" preceding "high risk" in subsections (1) through (4) and added subsection (5).

**56-242. Idaho health insurance access card.** — (1) The director shall develop an Idaho health insurance access card program in the department to implement the small business health insurance pilot program.

(2)(a) There is hereby created and established in the state treasury a fund to be known as the "Idaho health insurance access card fund." Moneys in the fund shall be maintained in two (2) subaccounts, identified respectively as the "CHIP Plan B subaccount" and the "small business health insurance pilot program subaccount." Appropriations, matching federal funds, grants, donations and moneys from other sources shall be paid into the fund. The department shall administer the fund. Any interest earned on the investment of idle moneys in the fund shall be returned to and deposited in the fund.

(b) Moneys in the CHIP Plan B subaccount and the small business health insurance pilot program subaccount shall be expended pursuant to appropriation for the payment of benefits and capped administrative costs of the department.

(3) The director shall manage waivers of federal title XXI and title XIX to subsidize health care coverage under the CHIP Plan B and the small business health insurance pilot program. Federal matching funds received by the department to provide coverage under CHIP Plan B and the small business health insurance pilot program shall be deposited in the appropriate subaccount.

(4) The director is authorized to promulgate rules recommended by the board of the Idaho individual high risk reinsurance pool to implement the CHIP Plan B and the small business health insurance pilot program.

(5) Insurers offering health benefit plans regulated under chapter 47, title 41, Idaho Code, shall accept payment for such plans under the small business health insurance pilot program pursuant to rules promulgated by the department.

(6) The department shall limit assistance under the Idaho health insurance access card program to those who do not have access to comparable or better coverage under other federal or state programs.

#### History.

I.C., § 56-242, as added by 2003, ch. 308, § 7, p. 844; am. 2014, ch. 80, § 6, p. 218.

### STATUTORY NOTES

#### Amendments.

The 2014 amendment, by ch. 80, deleted “the children’s access card program” and similar language and made related changes throughout the section; substituted “two (2) subaccounts” for “three (3) subaccounts” in the second sentence of paragraph (2)(a); substituted “manage waivers” for “apply for waivers” in the first sentence of subsection (3); inserted “individual” preceding “high risk” in subsection (4); deleted the last sentence in subsection (5), which read: “Insurers offering health benefit plans, as defined in section 56-238, Idaho Code, shall accept payment for

such plans under the children’s access card program”; and rewrote subsection (6), which formerly read: “The CHIP Plan B and the children’s access card program shall be implemented by July 1, 2004. Implementation of the small business health insurance pilot program shall begin on July 1, 2005”.

#### Federal References.

Federal title XXI, referred to in subsection (3), is codified as 42 U.S.C.S. § 1397aa et seq.

Federal title XIX, referred to in subsection (3), is codified as 42 U.S.C.S. § 1396 et seq.

## 56-254. Eligibility for medical assistance.

### RESEARCH REFERENCES

**A.L.R.** — State criminal prosecution against medical practitioner for fraud in connection with claims under medicaid, medi-

care, or similar welfare program for providing medical services. 79 A.L.R.6th 125.

## 56-255. Medical assistance program — Services to be provided. —

(1) The department may make payments for the following services furnished by providers to participants who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be reimbursed only when medically necessary within the appropriations provided by law and in accordance with federal law and regulation, Idaho law and department rule. Notwithstanding any other provision of this chapter, medical assistance includes the following benefits specific to the

eligibility categories established in section 56-254(1), (2) and (3), Idaho Code, as well as a list of benefits to which all Idaho medicaid participants are entitled, defined in subsection (5) of this section.

(2) Specific health benefits and limitations for low-income children and working-age adults with no special health needs include:

- (a) All services described in subsection (5) of this section;
- (b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found; and
- (c) Cost-sharing required of participants. Participants in the low-income children and working-age adult group are subject to the following premium payments, as stated in department rules:
  - (i) Participants with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guideline are not required to pay premiums; and
  - (ii) Participants with family incomes above one hundred thirty-three percent (133%) of the federal poverty guideline will be required to pay premiums in accordance with department rule.

(3) Specific health benefits for persons with disabilities or special health needs include:

- (a) All services described in subsection (5) of this section;
- (b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found;
- (c) Case management services as defined in accordance with section 1905(a)(19) or section 1915(g) of the social security act; and
- (d) Long-term care services, including:
  - (i) Nursing facility services, other than services in an institution for mental diseases, subject to participant cost-sharing;
  - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require nursing facility level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including options for self-determination or family-directed, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule; and
  - (iii) Personal care services in a participant's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse;

- (e) Services for persons with developmental disabilities, including:
  - (i) Intermediate care facility services, other than such services in an institution for mental diseases, for persons determined in accordance with section 1902(a)(31) of the social security act to be in need of such care, including such services in a public institution, or distinct part thereof, for persons with intellectual disabilities or persons with related conditions;
  - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require an intermediate care

facility for people with intellectual disabilities (ICF/ID) level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports and options for self-directed or family-directed services, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule. The department shall allow budget modifications only when needed to obtain or maintain employment or when health and safety issues are identified and meet the criteria as defined in department rule; and

(iii) Developmental disability services for children and adults shall be available based on need through state plan services or waiver services as described in department rule. The department shall develop a blended rate covering both individual and group developmental therapy services;

(f) Home health services, including:

(i) Intermittent or part-time nursing services provided by a home health agency or by a registered nurse when no home health agency exists in the area;

(ii) Home health aide services provided by a home health agency; and

(iii) Physical therapy, occupational therapy or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility;

(g) Hospice care in accordance with section 1905(o) of the social security act;

(h) Specialized medical equipment and supplies;

(i) Medicare cost-sharing, including:

(i) Medicare cost-sharing for qualified medicare beneficiaries described in section 1905(p) of the social security act;

(ii) Medicare part A premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(ii) of the social security act;

(iii) Medicare part B premiums for specified low-income medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the social security act; and

(iv) Medicare part B premiums for qualifying individuals described in section 1902(a)(10)(E)(iv) and subject to section 1933 of the social security act; and

(j) Nonemergency medical transportation.

(4) Specific health benefits for persons over twenty-one (21) years of age who have medicare and medicaid coverage include:

(a) All services described in subsection (5) of this section, other than if provided under the federal medicare program;

(b) All services described in subsection (3) of this section, other than if provided under the federal medicare program;

(c) Other services that supplement medicare coverage; and

(d) Nonemergency medical transportation.

(5) Benefits for all medicaid participants, unless specifically limited in subsection (2), (3) or (4) of this section, include the following:

- (a) Health care coverage including, but not limited to, basic inpatient and outpatient medical services, and including:
- (i) Physicians' services, whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere;
  - (ii) Services provided by a physician or other licensed practitioner to prevent disease, disability and other health conditions or their progressions, to prolong life, or to promote physical or mental health; and
  - (iii) Hospital care, including:
    1. Inpatient hospital services other than those services provided in an institution for mental diseases;
    2. Outpatient hospital services; and
    3. Emergency hospital services;
  - (iv) Laboratory and x-ray services;
  - (v) Prescribed drugs;
  - (vi) Family planning services and supplies for individuals of child-bearing age;
  - (vii) Certified pediatric or family nurse practitioners' services;
  - (viii) Emergency medical transportation;
  - (ix) Behavioral health services, including:
    1. Outpatient behavioral health services that are appropriate, delivered by providers that meet national accreditation standards and may include community-based rehabilitation services and case management; and
    2. Inpatient psychiatric facility services whether in a hospital, or for persons under the age of twenty-two (22) years in a freestanding psychiatric facility as permitted by federal law;
  - (x) Medical supplies, equipment, and appliances suitable for use in the home;
  - (xi) Physical therapy and speech therapies combined to align with the annual medicare caps; and
  - (xii) Occupational therapy to align with the annual medicare cap;
- (b) Primary care medical homes;
- (c) Dental services. Children shall have access to prevention, diagnosis and treatment services as defined in federal law. Adult coverage shall be limited to medically necessary oral surgery and palliative services and associated diagnostic services. Select covered benefits include: exams, radiographs, periodontal, oral and maxillofacial surgery and adjunctive general services as defined in department rule. Pregnant women and adult participants with disabilities or special health needs shall have access to dental services that reflect evidence-based practice;
- (d) Medical care and any other type of remedial care recognized under Idaho law, furnished by licensed practitioners within the scope of their practice as defined by Idaho law, including:
- (i) Podiatrists' services based on chronic care criteria as defined in department rule;
  - (ii) Optometrists' services based on chronic care criteria as defined in department rule;
  - (iii) Chiropractors' services shall be limited to six (6) visits per year; and

- (iv) Other practitioners' services, in accordance with department rules;
- (e) Services for individuals with speech, hearing and language disorders as defined in department rule;
- (f) Eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;
- (g) Services provided by essential providers, including:
  - (i) Rural health clinic services and other ambulatory services furnished by a rural health clinic in accordance with section 1905(l)(1) of the social security act;
  - (ii) Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with section 1905(l)(2) of the social security act;
  - (iii) Indian health services;
  - (iv) District health departments; and
  - (v) The family medicine residency of Idaho and the Idaho state university family medicine residency; and
- (h) Physician, hospital or other services deemed experimental are excluded from coverage. The director may allow coverage of procedures or services deemed investigational if the procedures or services are as cost-effective as traditional, standard treatments.

#### History.

I.C., § 56-255, as added by 2006, ch. 278, § 1, p. 853; am. 2007, ch. 200, § 5, p. 610; am. 2009, ch. 34, § 4, p. 95; am. 2010, ch. 235,

§ 46, p. 542; am. 2011, ch. 164, § 9, p. 463; am. 2012, ch. 190, § 1, p. 510; am. 2013, ch. 25, § 1, p. 46; am. 2014, ch. 62, § 1, p. 147; am. 2014, ch. 109, § 1, p. 316.

#### STATUTORY NOTES

#### Amendments.

The 2013 amendment, by ch. 25, in subsection (3), deleted former paragraph (d), which read: "Mental health services delivered by providers that meet national accreditation standards, including:

"(i) Inpatient psychiatric facility services whether in a hospital, or for persons under age twenty-two (22) years in a freestanding psychiatric facility, as permitted by federal law, in excess of those limits in department rules on inpatient psychiatric facility services provided under subsection (5) of this section;

"(ii) Outpatient mental health services in excess of those limits in department rules on outpatient mental health services provided under subsection (5) of this section; and

"(iii) Psychosocial rehabilitation for reduction of mental disability for children under the age of eighteen (18) years with a serious emotional disturbance (SED). Individuals age eighteen (18) years to age twenty-one (21) years with severe and persistent mental illness shall have access to benefits up to a weekly cap of five (5) hours while adults over the age of twenty-one (21) years with severe and persistent mental illness shall have access to benefits up to a weekly cap of four (4) hours",

and redesignated former paragraphs (e) to (k) as present paragraphs (d) through (j); and rewrote paragraph (5)(a)(ix), which formerly read: "Mental health services, including:

"1. Outpatient mental health services that are appropriate, within limits stated in department rules; and

"2. Inpatient psychiatric facility services within limits stated in department rules."

This section was amended by two 2014 acts which appear to be compatible and have been compiled together.

The 2014 amendment, by ch. 62, substituted "and adult participants with disabilities or special health needs" for "participants on the aged and disabled waiver and the developmental disability waiver" in the last sentence of paragraph (5)(c).

The 2014 amendment, by ch. 109, in paragraph (3)(e)(ii), substituted "and options for self-directed or family-directed services" for "including options for self-determination or family-directed" in the second sentence and rewrote the last sentence, which formerly read: "The department shall respond to requests for budget modifications only when health and safety issues are identified and meet the criteria as defined in department rule".



**Federal References.**

Section 1905 of the social security act, referred to in paragraphs (3)(c), (3)(g), (3)(i)(i), (5)(g)(i) and (5)(g)(ii), is codified as 42 U.S.C.S. § 1396d.

Section 1915 of the social security act, referred to in paragraph (3)(c), is codified as 42 U.S.C.S. § 1396n.

Section 1902(a)(31) of the social security act, referred to in paragraph (3)(e)(i), is codified as 42 U.S.C.S. § 1396a(a)(31).

Section 1902(a)(10)(E)(ii) of the social security act, referred to in paragraph (3)(i)(ii), is codified as 42 U.S.C.S. § 1396a(a)(10)(E)(ii).

Section 1902(a)(10)(E)(iii) of the social security act, referred to in paragraph (3)(i)(iii), is codified as 42 U.S.C.S. 1396a(a)(10)(E)(iii).

Section 1902(2)(10)(E)(iv) of the social security act, referred to in paragraph (3)(i)(iv), is codified as 42 U.S.C.S. § 1396a(2)(10)(E)(iv).

Section 1933 of the social security act, referred to in paragraph (3)(i)(iv), is codified as 42 U.S.C.S. § 1396u-3.

**Compiler's Notes.**

For more on the family medicine residency of Idaho, see <http://www.fmridaho.org>.

For more on the Idaho state university family medicine residency program, see <http://www.fmed.isu.edu>.

The abbreviations enclosed in parentheses so appeared in the law as enacted.

**56-265. Provider payment.**

**RESEARCH REFERENCES**

**A.L.R.** — State criminal prosecution against medical practitioner for fraud in connection with claims under medicaid, medi-

care, or similar welfare program for providing medical services. 79 A.L.R.6th 125.

**CHAPTER 9**

**TELECOMMUNICATIONS SERVICE ASSISTANCE**

**SECTION.**

- 56-901. Telecommunications service assistance program — Definitions.
- 56-902. Assistance rate discount — Form —

Applicable services — Amount — Application.

**56-901. Telecommunications service assistance program — Definitions.** — (1) A telecommunications service assistance program is hereby established within the department of health and welfare to provide eligible recipients with a reduction in costs of telecommunications services to promote universal service. The program shall be administered by the department of health and welfare in accordance with the provisions of this chapter and rules and regulations promulgated in compliance with chapter 52, title 67, Idaho Code, to administer the program. The telecommunications service assistance program adopted shall grant limited federal "lifeline" contributions to Idaho's low-income customers.

(2) For the purposes of this chapter, a "telecommunications carrier" means a telephone corporation providing telecommunication services for compensation within this state, and shall include municipal, cooperative, or mutual nonprofit telephone companies, and telecommunication corporations providing wireless, cellular, personal communications services and mobile radio services for compensation.

**History.**

I.C., § 56-901, as added by 1987, ch. 328,

§ 1, p. 686; am. 1998, ch. 37, § 8, p. 157; am. 2013, ch. 186, § 1, p. 446.

STATUTORY NOTES

Amendments.

The 2013 amendment, by ch. 186, substituted "shall grant limited federal 'lifeline'

contributions" for "shall maximize federal 'lifeline' and 'link up' contributions" in the last sentence in subsection (1).

**56-902. Assistance rate discount — Form — Applicable services — Amount — Application.** — (1) Telecommunication carriers providing residential basic local service shall provide assistance in the form of a monthly discount to eligible subscribers of residential basic local service of two dollars and fifty cents (\$2.50). In no case will the discount exceed the rate charged for the grade of residential basic local service subscribed to by each eligible individual. The Idaho telecommunications service assistance plan shall only be used to provide for a single line at the subscriber household.

(2) The providers of residential basic local service and the Idaho department of health and welfare shall comply with all requirements expressly provided by federal order, regulation and statute for eligible subscribers to qualify for the federal "lifeline" telephone assistance program. In accordance with federal law, the Idaho public utilities commission may grant waivers to carriers of residential basic local service from providing certain services to eligible subscribers.

History.

I.C., § 56-902, as added by 1987, ch. 328,

§ 1, p. 686; am. 1998, ch. 37, § 9, p. 157; am. 2013, ch. 186, § 2, p. 446.

STATUTORY NOTES

Amendments.

The 2013 amendment, by ch. 186, in subsection (1), substituted "two dollars and fifty cents (\$2.50)" for "three dollars and fifty cents (\$3.50) or an amount authorized by the federal communication commission whichever is greater" in the first sentence and substituted "a single line at the subscriber household" for

"a single residence line at the principal residence of the eligible subscriber" in the last sentence; deleted "and 'link-up'" preceding "telephone assistance program" in the first sentence in subsection (2); and substituted "basic local service" for "basic local exchange service" throughout the section.

CHAPTER 10

DEPARTMENT OF HEALTH AND WELFARE

SECTION.

- 56-1004A. Criminal history and background checks.
- 56-1012. Definitions.
- 56-1024. Idaho time sensitive emergency system of care — Statement of intent.
- 56-1025. Definitions.
- 56-1026. Idaho time sensitive emergency system — Creation.
- 56-1027. Idaho time sensitive emergency sys-

SECTION.

- tem council — Creation — Composition.
- 56-1028. Idaho time sensitive emergency system council — Duties — Rulemaking.
- 56-1029. Idaho trauma, stroke and heart attack centers — Designation.
- 56-1030. Regional time sensitive emergency committees — Membership — Duties.

**56-1002. Department of health and welfare — Creation — Administrative regions.**

**JUDICIAL DECISIONS**

**Elimination of Directors.**

Under subsection (3), the director of Idaho department of health and welfare had authority to eliminate four regional directors; the

statute did not state that the consolidation of the regional director positions contravened the law. *Arambarri v. Armstrong*, 152 Idaho 734, 274 P.3d 1249 (2012).

**56-1004A. Criminal history and background checks.** — (1) To assist in the protection of children and vulnerable adults, the legislature hereby authorizes the department of health and welfare to conduct criminal history and background checks of individuals who provide care or services to vulnerable adults or children and are identified in rule as being required to have a criminal history and background check.

(2) To further assist in the protection of vulnerable adults, the department of health and welfare may:

- (a) Conduct criminal history and background checks of those seeking guardianship or conservatorship and those who reside in an incapacitated person's proposed residence;
- (b) Make the findings of such criminal history and background checks available to visitors, guardians ad litem and evaluation committees appointed pursuant to chapter 5, title 15 or chapter 4, title 66, Idaho Code; and
- (c) Promulgate such rules as are necessary to carry out the provisions of this section.

The provisions of subsection (6) of this section shall not apply to criminal history and background checks conducted pursuant to this subsection.

(3) Criminal history and background checks will be conducted by the department of health and welfare when:

- (a) Required or ordered by the court pursuant to chapter 5, title 15 or chapter 4, title 66, Idaho Code;
  - (b) Requested by those required to undergo such checks; and
  - (c) Paid for in full by those required to undergo such checks.
- (4) The criminal history and background check will be a fingerprint-based check of state and national records and may include information from the following:

- (a) Statewide criminal identification bureau;
- (b) Federal bureau of investigation (FBI);
- (c) National crime information center;
- (d) Statewide sex offender registry;
- (e) Idaho transportation department driving records;
- (f) Adult and child protection registries;
- (g) Nurse aide registry; and
- (h) Department of health and human services office of the inspector general list of excluded individuals and entities.

(5) The department of health and welfare shall promulgate rules to further define those individuals who are required to have a criminal history

and background check and the effective date. Each individual shall complete an application, which includes a notarized signature, on forms provided by the department. The completed application authorizes the department to obtain and release information in accordance with state and federal law. The applicant must disclose all information requested, including information on past convictions, driver's license revocations, and known adult or child protection findings. Once an application has been completed, the employer, at its discretion, may allow the individual to provide care or services prior to the individual completing fingerprinting and pending completion of the criminal history and background check by the department. The department shall promulgate rules defining the time frame for submitting the application. Under no circumstances may the individual be allowed to provide care or services where the employer has reviewed the completed application and the individual has disclosed a designated crime as set forth in rule.

(6) The department shall review the information received from the criminal history and background check and determine whether the applicant has a criminal or other relevant record that would disqualify the individual. The department shall determine which crimes disqualify the applicant and for what period of time according to promulgated rules. The process for the check and the issuance of a clearance or denial is set forth in department rules. The applicant shall be provided an opportunity for a formal review of a denial. The department shall communicate clearance or denial to the applicant and the applicant's employer.

(7) Applicants are responsible for the cost of the criminal history and background check except where otherwise provided by department rules.

(8) The department, or an employer of an applicant, who acts in reasonable reliance on the results of the criminal history and background check in making an employment decision, is immune from liability for that decision when it is based on such results.

(9) The department, its officers and employees are immune from liability for the consequences of including or excluding classes of individuals in the criminal history and background check process.

(10) Clearance through the criminal history and background check process is not a determination of suitability for employment.

(11) Effective until September 30, 2007, or when federal funding is no longer available, the legislature hereby authorizes the department of health and welfare to participate in a federal pilot project to conduct criminal history and background checks of providers, employees and contractors who have access to patients in long-term care settings. Long-term care facilities or providers include nursing facilities, institutional care facilities for people with intellectual disabilities, residential or assisted living facilities, long-term care hospitals or hospitals with swing beds, and home health and hospice providers. The criminal history and background checks for the long-term care providers, employees and contractors will be funded through the federal grant at no cost to the long-term care providers, employees or contractors until September 30, 2007, or the federal funding is no longer available.

**History.**

I.C., § 56-1004A, as added by 2005, ch. 312, § 1, p. 970; am. 2006, ch. 281, § 1, p. 864; am.

2010, ch. 235, § 54, p. 542; am. 2013, ch. 262, § 4, p. 640.

**STATUTORY NOTES****Amendments.**

The 2013 amendment, by ch. 262, inserted present subsections (2) and (3), and redesignated the subsequent subsections accordingly; and inserted “criminal history and” preceding “background check” in present subsections (5) and (7).

**Compiler’s Notes.**

For national crime information center, see <http://www.fas.org/irp/agency/doj/fbilis/ncic.htm>.

**56-1012. Definitions.** — As used in sections 56-1011 through 56-1023, Idaho Code:

(1) “Advanced emergency medical technician” means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(2) “Agency” means any organization licensed by the EMS bureau that operates an air medical service, ambulance service or nontransport service.

(3) “Air ambulance” means any privately or publicly owned fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(4) “Air medical service” means an agency licensed by the EMS bureau that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing aircraft or rotary wing aircraft.

(5) “Ambulance” means any privately or publicly owned motor vehicle or nautical vessel used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(6) “Ambulance service” means an agency licensed by the EMS bureau operated with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport.

(7) “Applicant” means any organization that is requesting an agency license under this chapter and includes the following:

- (a) An organization seeking a new license;
- (b) An existing agency that intends to change the level of licensed personnel it utilizes;

(c) An existing agency that intends to change its geographic coverage area, except by agency annexation;

(d) An existing nontransport service that intends to provide ambulance service;

(e) An existing ambulance service that intends to discontinue transport and become a nontransport service.

(8) "Board" means the Idaho board of health and welfare.

(9) "Commission" means the Idaho emergency medical services physician commission.

(10) "Department" means the Idaho department of health and welfare.

(11) "Emergency medical responder" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(12) "Emergency medical services" or "EMS" means aid rendered by an individual or group of individuals who do the following:

(a) Respond to a perceived need for medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(b) Are prepared to provide interventions that are within the scope of practice as defined by the commission;

(c) Use an alerting mechanism to initiate a response to requests for medical care; and

(d) Offer, advertise or attempt to respond as described in paragraphs (a) through (c) of this subsection.

Aid rendered by a ski patroller, as described in section 54-1804(1)(h), Idaho Code, is not EMS.

(13) "EMS bureau" means the bureau of emergency medical services of the department.

(14) "Emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(15) "Licensed personnel" means those individuals who are emergency medical responders, emergency medical technicians, advanced emergency medical technicians and paramedics.

(16) "National emergency medical services information system technical assistance center" means an organization that validates software for compliance with the EMS data set defined by the United States department of transportation national highway traffic safety administration.

(17) "Nontransport service" means an agency licensed by the EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons.

(18) "Nontransport vehicle" means any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization

at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons.

(19) "Paramedic" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(20) "Supervision" means the medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical or nontransport service, including, but not limited to: establishing standing orders and protocols, reviewing performance of licensed personnel, providing instructions for patient care via radio or telephone, and other oversight.

(21) "Transfer" means the transportation of a patient from one (1) medical care facility to another.

**History.**

I.C., § 39-141, as added by 1976, ch. 187, § 2, p. 674; am. 1980, ch. 145, § 7, p. 310; am. 1992, ch. 110, § 1, p. 339; am. 1993, ch. 50, § 1, p. 130; am. and redesisg. 1996, ch. 26, § 3,

p. 61; am. 1999, ch. 131, § 1, p. 376; am. and redesisg. 2001, ch. 110, § 5, p. 373; am. 2006, ch. 421, § 1, p. 1301; am. 2009, ch. 189, § 2, p. 611; am. 2014, ch. 86, § 1, p. 235.

**STATUTORY NOTES**

**Amendments.**

The 2014 amendment, by ch. 86, rewrote subsection (12), which formerly read: "Emergency medical services' or 'EMS' means the system utilized in responding to a per-

ceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury".

**56-1024. Idaho time sensitive emergency system of care — Statement of intent.** — Time sensitive emergencies, specifically blunt trauma injuries, strokes and heart attacks, were three (3) of the top five (5) causes of deaths in Idaho in 2011. Numerous studies throughout the United States have demonstrated that organized systems of care improve patient outcomes, thus reducing the frequency of preventable death and improving the functional status of the patient. The institute of medicine's report "Hospital-Based Emergency Care: At the Breaking Point" recommended improving the care of critical illness through regionalization by transporting critically ill patients to designated specialized care centers when appropriate. Early treatment and transfer when necessary will save the lives of Idahoans stricken with these emergency conditions. Trauma systems of care are well understood as they have existed in many other states for decades. It is the intent of this legislation to create an integrated and responsive system of care for Idaho citizens. The trauma component will serve as the initial framework in a deliberate, incremental implementation approach for a comprehensive system of care for time sensitive emergencies in Idaho. The time sensitive emergency system in Idaho is intended to be voluntary and inclusive. The system will be designed such that all facilities, and in particular critical access hospitals, have the opportunity to participate. No

facility shall be excluded from receiving medically appropriate patients based solely on the facility's decision of not seeking designation.

**History.**

I.C., § 56-1024, as added by 2014, ch. 147, § 1, p. 403.

**STATUTORY NOTES**

**Prior Laws.**

Former § 56-1024, Revocation, which comprised I.C., § 39-154, as added by 1994, ch. 298, § 1, p. 941; am. and redesign. 2001, ch. 110, § 19, p. 373, was repealed by S.L. 2007, ch. 196, § 18. For present comparable provisions, see § 39-4501 et seq.

**Compiler's Notes.**

For further information on the institute or medicine, see <http://iom.edu/>.

**56-1025. Definitions.** — As used in sections 56-1024 through 56-1030, Idaho Code:

(1) "EMS agency" means any organization licensed by the EMS bureau that operates an air medical service, ambulance service or nontransport service.

(2) "EMS bureau" means the bureau of emergency medical services of the department of health and welfare.

(3) "Council" means the Idaho time sensitive emergency system council.

(4) "TSE" means time sensitive emergency, specifically trauma, stroke and heart attack.

**History.**

I.C., § 56-1025, as added by 2014, ch. 147, § 2, p. 403.

**STATUTORY NOTES**

**Cross References.**

Emergency medical services, § 56-1011 et seq.

Idaho time sensitive emergency system council, § 56-1027.

which comprised I.C., § 39-155, as added by 1994, ch. 298, § 1, p. 941; am. and redesign. 2001, ch. 110, § 20, p. 373, was repealed by S.L. 2007, ch. 196, § 18. For present comparable provisions, see § 39-4501 et seq.

**Prior Laws.**

Former § 56-1025, Conflicting DNR orders,

**56-1026. Idaho time sensitive emergency system — Creation.** — There is hereby created a voluntary time sensitive emergency system within the department of health and welfare.

**History.**

I.C., § 56-1026, as added by 2014, ch. 147, § 3, p. 403.

**STATUTORY NOTES**

**Prior Laws.**

Former § 56-1026, Adherence to DNR protocol, which comprised I.C., § 39-156, as

added by 1994, ch. 298, § 1, p. 941; am. and redesign. 2001, ch. 110, § 21, p. 373; am. 2004, ch. 56, § 6, p. 258; am. 2004, ch. 228, § 2, p.



671, was repealed by S.L. 2007, ch. 196, § 18.  
 For present comparable provisions, see § 39-4501 et seq.

**56-1027. Idaho time sensitive emergency system council — Creation — Composition.** — (1) There is hereby created the Idaho time sensitive emergency system council hereinafter known as the “council.” Council members shall be appointed by the governor with the approval of the board of health and welfare. Council members shall be selected to assure equitable geographic, rural and clinical specialty representation.

(2) The membership of the council shall include the following:

- (a) One (1) representative from a facility that either holds or is seeking designation as an Idaho trauma center. The representative shall be the medical director, the coordinator or the program manager responsible for the respective facility’s trauma program;
- (b) One (1) representative from a facility that either holds or is seeking designation as an Idaho stroke facility. The representative shall be the medical director, the coordinator or the program manager responsible for the respective facility’s stroke program;
- (c) One (1) representative from a facility that either holds or is seeking designation as an Idaho heart attack center. The representative shall be the medical director, the coordinator or the program manager responsible for the respective facility’s heart attack program;
- (d) One (1) representative from an EMS agency licensed by the department that serves a primarily urban response area;
- (e) One (1) representative from an EMS agency licensed by the department that serves a primarily rural response area;
- (f) One (1) representative from an air medical EMS agency licensed by the department;
- (g) One (1) administrator of an Idaho hospital that either holds or is seeking Idaho trauma, stroke or heart attack designation;
- (h) One (1) chief executive officer or administrator of an Idaho critical access hospital that either holds or is seeking Idaho trauma, stroke or heart attack designation;
- (i) One (1) licensed health care provider who routinely works in the emergency department of a hospital that serves a primarily urban area that either holds or is seeking trauma, stroke or heart attack designation;
- (j) One (1) licensed health care provider who routinely works in the emergency department of a hospital that serves a primarily rural area that either holds or is seeking trauma, stroke or heart attack designation; and
- (k) One (1) Idaho citizen with an interest in furthering the quality of trauma, stroke and heart attack care in Idaho.

(3) The chair of each regional TSE committee shall be added as a voting member of the council when the regional TSE committee is implemented and the chair is selected.

(4) Members of the council shall serve four (4) year terms with half of the members initially appointed, as determined by lot, serving two (2) year terms. If a vacancy occurs, the governor shall appoint a replacement to fill

the unexpired term. Members may be reappointed and shall serve at the pleasure of the governor.

(5) The governor shall appoint a chair who shall serve a term of two (2) years. The council may elect other officers as it may deem necessary and appropriate. The council shall meet at least semiannually and at the call of the chair.

**History.**

I.C., § 56-1027, as added by 2014, ch. 147, § 4, p. 403.

**STATUTORY NOTES**

**Prior Laws.**

Former § 56-1027, Disregarding of DNR order, which comprised I.C., § 39-157, as added by 1994, ch. 298, § 1, p. 941; am. and

redesig. 2001, ch. 110, § 22, p. 373; am. 2004, ch. 56, § 7, p. 258, was repealed by S.L. 2007, ch. 196, § 18. For present comparable provisions, see § 39-4501 et seq.

**56-1028. Idaho time sensitive emergency system council — Duties — Rulemaking.** — The duties of the council shall be as follows:

(1) Develop, implement and monitor a voluntary statewide system that includes trauma, stroke and heart attack facilities;

(2) Provide oversight of the system, assuring adherence to standards established by the council;

(3) Establish substate system regions that provide more effective access to the system. In the designation of these regions, specific consideration shall be given to geography and patient referral patterns for the facilities and agencies included therein;

(4) Establish a regional TSE committee in each substate region;

(5) Develop the standards and criteria that each participating facility that voluntarily applies is required to meet concerning personnel, equipment, resources, data collection and organizational capabilities to obtain or maintain designation;

(6) Develop procedures for and the duration of the designation of a trauma, stroke or heart attack facility, including application procedures, verification procedures, investigation of complaints pertaining to designation and emergency suspension or revocation of designation;

(7) Develop operational procedures for the regional TSE committees;

(8) Facilitate the implementation of nationally accepted standards throughout the voluntary system;

(9) Set procedures for the acquisition of data needed to successfully manage the system;

(10) Promulgate rules to fulfill the purpose of this act; and

(11) Collaborate and cooperate with the EMS bureau, the EMS physician commission, local governments, local EMS agencies and associations to address recruitment and retention concerns of local EMS providers.

**History.**

I.C., § 56-1028, as added by 2014, ch. 147, § 5, p. 403.

STATUTORY NOTES

**Prior Laws.**

Former § 56-1028, Absence of DNR order, which comprised I.C., § 39-158, as added by 1994, ch. 298, § 1, p. 941; am. and redesign. 2001, ch. 110, § 23, p. 373, was repealed by S.L. 2007, ch. 196, § 18. For present comparable provisions, see § 39-4501 et seq.

**Compiler's Notes.**

The term "this act" in subsection (10) refers to S.L. 2014, ch. 147, which is compiled as §§ 56-1024 to 56-1030 and 57-2001 to 57-2007.

**56-1029. Idaho trauma, stroke and heart attack centers — Designation.** — (1) The council shall designate a hospital as a trauma, stroke or heart attack center when such hospital, upon proper application and verification, has been found by the council to meet the applicable level of trauma, stroke or heart attack center criteria as established by the council.

(2) In developing trauma, stroke and heart attack center designation criteria, the council shall use, as is practicable, appropriate peer-reviewed or evidence-based research including, but not limited to, the most recent guidelines of the American college of surgeons committee on trauma, American college of cardiology and American heart association for heart attack centers, or the joint commission's primary stroke center certification program criteria for stroke centers, or primary and comprehensive stroke center recommendations as published by the American stroke association or other nationally recognized authoritative standards.

(3) Participation criteria shall be published in rules promulgated by the council.

(4) The council shall conduct a periodic verification review of every trauma, heart attack and stroke facility. Verification reviews shall be coordinated for the different types of centers to the extent practicable with hospital resources. No person who has a substantial conflict of interest in the operation of any trauma, stroke and heart attack center under review shall participate in the verification review of the facility.

(5) The council shall coordinate an on-site review as necessary to assure that a hospital meets the criteria for the desired designation. The council may waive an on-site review when a hospital has been verified by a nationally recognized accrediting body to meet or exceed standards established by the council.

(6) The council may deny, place on probation, suspend or revoke any designation when it has reasonable cause to believe that there has been misrepresentation or falsification of information or a substantial failure to comply with the criteria for designation promulgated by the council. If the council has reasonable cause to believe that a hospital is not in compliance with such provisions, it may require the facility to submit additional documentation or undergo additional site reviews to verify compliance.

(7) No hospital may hold itself out to the public as an Idaho designated trauma center, Idaho designated stroke facility or Idaho designated heart attack facility unless it is designated as such by the council.

(8) A hospital aggrieved because of the council's decision shall be entitled to appeal to the council in the manner prescribed by the council and shall be afforded reasonable notice and opportunity for a fair hearing.

(9) Actions of the council relating to adoption of rules, notice, hearings, appeals from decisions of the department or the director, and review shall be governed by the provisions of chapter 52, title 67, Idaho Code, the administrative procedure act.

**History.**

I.C., § 56-1029, as added by 2014, ch. 147, § 6, p. 403.

**STATUTORY NOTES**

**Prior Laws.**

Former § 56-1029, Immunity, which comprised I.C., § 56-1029, as added by 2001, ch. 110, § 24, p. 373; am. 2004, ch. 56, § 8, p. 258, was repealed by S.L. 2007, ch. 196, § 18. For present comparable provisions, see § 39-4501 et seq.

**Compiler's Notes.**

For further information on the American

college of surgeons committee on trauma, see <http://www.facs.org/trauma/index.html>.

For further information on the American college of cardiology, see <http://www.cardiosource.org/lacc>.

For further information on the joint commission's certification for primary stroke centers, see [http://www.jointcommission.org/certification/primary\\_stroke\\_centers.aspx](http://www.jointcommission.org/certification/primary_stroke_centers.aspx).

**56-1030. Regional time sensitive emergency committees — Membership — Duties.** — (1) Pursuant to section 56-1028(4), Idaho Code, each substate region designated by the council shall have a time sensitive emergency committee.

(2) Membership of each regional TSE committee shall be based on the needs of the region and can be modified as the regional TSE committee determines, but each regional committee shall be initially comprised as follows:

- (a) Each facility that is designated or is seeking designation by the council as a trauma center, stroke facility or heart attack facility may appoint one (1) representative for each of the designations that the facility holds or is seeking to hold to the regional committee for the region in which the facility is located;
- (b) Each air medical EMS agency that provides patient transport within the region may appoint one (1) representative;
- (c) Each hospital that either holds or is seeking Idaho trauma, stroke or heart attack designation may appoint the hospital administrator;
- (d) Each EMS agency with a response area in the region may appoint one (1) representative; and
- (e) The regional committee shall include a pediatrician or an expert in children's trauma.

(3) Members of a regional committee shall elect a chair to serve a term of two (2) years.

(4) The duties of each regional committee shall be as follows:

- (a) Implement care guidelines, policies, procedures and protocols for the regional TSE system;
- (b) Conduct regional quality improvement, including receipt of reports prepared by the council containing trauma, stroke and heart attack data and making recommendations to facilities within the region based upon those reports;

- (c) Advise the council concerning the statewide system;
- (d) Establish trauma, stroke and heart attack education and prevention programs;
- (e) Provide advice concerning trauma, stroke and heart attack care to health care facilities and other providers of health care;
- (f) Perform other duties required by Idaho code and council rules; and
- (g) Conduct other activities needed to ensure optimal delivery of trauma, stroke and heart attack care services within the region.

**History.**

I.C., § 56-1030, as added by 2014, ch. 147, § 7, p. 403.

**STATUTORY NOTES**

**Prior Laws.**

Former § 56-1030, Penalties, which comprised I.C., § 39-160, as added by 1994, ch. 298, § 1, p. 941; am. and redesisg. 2001, ch.

110, § 25, p. 373, was repealed by S.L. 2007, ch. 196, § 18. For present comparable provisions, see § 39-4501 et seq.

**CHAPTER 14**

**IDAHO HOSPITAL ASSESSMENT ACT**

**SECTION.**

56-1403. Hospital assessment fund established.

56-1404. Assessments.

**SECTION.**

56-1406. Inpatient and outpatient adjustment payments.

**56-1403. Hospital assessment fund established.** — (1) There is hereby created in the office of the state treasurer a dedicated fund to be known as the hospital assessment fund, hereinafter “fund,” to be administered by the department of health and welfare, hereinafter “department.” The state treasurer shall invest idle moneys in the fund and any interest received on those investments shall be returned to the fund.

(2) Moneys in the fund shall consist of:

- (a) All moneys collected or received by the department from private hospital assessments required by this chapter;
- (b) All federal matching funds received by the department as a result of expenditures made by the department that are attributable to moneys deposited in the fund;
- (c) Any interest or penalties levied in conjunction with the administration of this chapter; and
- (d) Any appropriations, federal funds, donations, gifts or moneys from any other sources.

(3) The fund is created for the purpose of receiving moneys in accordance with this section and section 56-1404, Idaho Code. The fund shall not be used to replace any moneys appropriated to the Idaho medical assistance program by the legislature. Moneys in the fund shall be distributed by the department subject to appropriation for the following purposes only:

- (a) Payments to private hospitals as required under Idaho’s medical

assistance program as set forth in sections 56-209b through 56-209d, Idaho Code;

(b) Reimbursement of moneys collected by the department from private hospitals through error or mistake in performing the activities authorized under Idaho's medical assistance program;

(c) Payments of administrative expenses incurred by the department or its agent in performing the activities authorized by this chapter;

(d) Payments made to the federal government to repay excess payments made to private hospitals from the fund if the assessment plan is deemed out of compliance and after the state has appealed the findings. Hospitals shall refund the payments in question to the assessment fund. The state in turn shall return funds to both the federal government and hospital providers in the same proportion as the original financing. Individual hospitals shall be reimbursed based on the proportion of the individual hospital's assessment to the total assessment paid by all private hospitals. If a hospital is unable to refund payments, the state shall develop a payment plan and deduct moneys from future medicaid payments;

(e) Transfers to any other fund in the state treasury, provided such transfers shall not exceed the amount transferred previously from that other fund into the hospital assessment fund; and

(f) Making refunds to hospitals pursuant to section 56-1410, Idaho Code.

#### History.

I.C., § 56-1403, as added by 2010, ch. 186,  
§ 7, p. 392; am. 2014, ch. 250, § 1, p. 629.

### STATUTORY NOTES

#### Amendments.

The 2014 amendment, by ch. 250, inserted "private" preceding "hospital assessments" in paragraph (2)(a); and, in subsection (3), inserted "private" preceding "hospitals" in paragraphs (a), (b), and (d).

#### Effective Dates.

Section 4 of S.L. 2014, ch. 250 declared an emergency. Approved March 26, 2014.

**56-1404. Assessments.** — (1) All private hospitals, except those exempted under section 56-1408, Idaho Code, shall make payments to the fund in accordance with this chapter. Subject to section 56-1410, Idaho Code, an annual assessment on both inpatient and outpatient services is determined for each qualifying hospital for each state fiscal year in an amount calculated by multiplying the rate, as set forth in subsections (2)(b) and (3)(b) of this section, by the assessment base, as set forth in subsection (5) of this section.

(2)(a) The department shall calculate the private hospital upper payment limit gap for both inpatient and outpatient services. The upper payment limit gap is the difference between the maximum allowable payments eligible for federal match, less medicaid payments not financed using hospital assessment funds. The upper payment limit gap shall be calculated separately for hospital inpatient and outpatient services. Medicaid disproportionate share payments shall be excluded from the calculation.

(b) The department shall calculate the upper payment limit assessment

rate for each state fiscal year to be the percentage that, when multiplied by the assessment base as defined in subsection (5) of this section, equals the upper payment limit gap determined in paragraph (a) of this subsection.

(3)(a) The department shall calculate the disproportionate share allotment amount to be paid to private in-state hospitals.

(b) The department shall calculate the disproportionate share assessment rate for private in-state hospitals to be the percentage that, when multiplied by the assessment base as defined in subsection (5) of this section, equals the amount of state funding necessary to pay the private in-state hospital disproportionate share allotment determined in paragraph (a) of this subsection.

(4) For private in-state hospitals, the assessments calculated pursuant to subsections (2) and (3) of this section shall not be greater than two and one-half percent (2.5%) of the assessment base as defined in subsection (5) of this section.

(5) The assessment base shall be the hospital's net patient revenue for the applicable period. "Net patient revenue" for state fiscal year 2009 shall be determined using the most recent data available from each hospital's fiscal year 2004 medicare cost report on file with the department on June 30, 2008, without regard to any subsequent adjustments or changes to such data. Net patient revenue for each state fiscal year thereafter shall be determined in the same manner using a rolling yearly schedule for each hospital's fiscal year medicare cost report on file with the department on June 30 of each subsequent year without regard to any subsequent adjustments or changes to such data.

#### **History.**

I.C., § 56-1404, as added by 2010, ch. 186, § 7, p. 392; am. 2014, ch. 250, § 2, p. 629.

### **STATUTORY NOTES**

#### **Amendments.**

The 2014 amendment, by ch. 250, inserted "private" preceding "hospitals" in the first sentence in subsection (1); substituted "each state fiscal year" for "state fiscal years 2009, 2010 and 2011" in the second sentence in subsection (1) and in paragraph (2)(b); in subsection (5), rewrote the second sentence

revising the duration of annual assessments, and deleted the former last sentence relating to determination of the assessment base.

#### **Effective Dates.**

Section 4 of S.L. 2014, ch. 250 declared an emergency. Approved March 26, 2014.

**56-1406. Inpatient and outpatient adjustment payments.** — All private hospitals, except those exempted under section 56-1408, Idaho Code, shall be eligible for inpatient and outpatient adjustments as follows:

(1) For state fiscal year 2009, the inpatient upper payment limit gap for private hospitals shall be divided by medicaid inpatient days for the same hospitals from calendar year 2007 to establish an average per diem adjustment rate. Each private hospital shall receive an annual payment that is equal to the average per diem adjustment rate multiplied by the hospital's calendar year 2007 medicaid inpatient days. For purposes of this

section, “hospital medicaid inpatient days” are days of inpatient hospitalization paid for by the Idaho medical assistance program for the applicable calendar year. Each state fiscal year thereafter shall be determined in the same manner using a rolling yearly schedule to determine the hospital inpatient adjustment payment. In the event that either the inpatient upper payment limit gap for private hospitals or the available hospital assessment funding is lower than anticipated, the department shall apply an across-the-board factor such that the inpatient payment adjustments are maximized, financed entirely from hospital assessment funding, and do not exceed the Idaho inpatient upper payment limit for private hospitals. Payments shall be made no later than thirty (30) days after the receipt of the last deposit of the hospital assessment required in section 56-1404, Idaho Code.

(2) For state fiscal year 2009, the outpatient upper payment limit gap for private hospitals shall be divided by medicaid outpatient hospital reimbursement for the same hospitals from calendar year 2007 to establish an average percentage adjustment rate. Each hospital, except those exempt under section 56-1408, Idaho Code, shall receive an annual payment that is equal to the average percentage adjustment rate multiplied by the hospital’s calendar year 2007 hospital medicaid outpatient reimbursement. For purposes of this section, “hospital outpatient reimbursement” is reimbursement for hospital outpatient services paid for by the Idaho medical assistance program for the applicable calendar year. Each state fiscal year thereafter shall be determined in the same manner using a rolling yearly schedule to determine the outpatient hospital adjustment payment. In the event that either the outpatient upper payment limit gap for private hospitals or the available hospital assessment funding is lower than anticipated, the department shall apply an across-the-board factor, such that outpatient adjustment payments are maximized, financed entirely from hospital assessment funding, and do not exceed the Idaho outpatient upper payment limit for private hospitals. Payments shall be made no later than thirty (30) days after the receipt of the last deposit of the hospital assessments required in section 56-1404, Idaho Code.

**History.**

I.C., § 56-1406, as added by 2010, ch. 186, § 7, p. 392; am. 2014, ch. 250, § 3, p. 629.

**STATUTORY NOTES****Amendments.**

The 2014 amendment, by ch. 250, inserted “private” preceding “hospital” in the introductory language; in subsection (1), inserted “private” preceding “hospital” in the second sentence, rewrote the fourth sentence and deleted the former fifth sentence, revising the method of determining the inpatient adjust-

ment rate; and rewrote the former fourth and fifth sentences in subsection (2), revising the method of determining the outpatient adjustment rate.

**Effective Dates.**

Section 4 of S.L. 2014, ch. 250 declared an emergency. Approved March 26, 2014.



# TITLE 57

## PUBLIC FUNDS IN GENERAL

CHAPTER.

- 2. MUNICIPAL BOND LAW, § 57-235.
- 8. FUNDS CONSOLIDATION ACT, §§ 57-811, 57-814, 57-818.
- 17. CENTRAL CANCER REGISTRY FUND, § 57-1702.

CHAPTER.

- 20. TIME SENSITIVE EMERGENCY (TSE) REGISTRY, §§ 57-2001 — 57-2007.

## CHAPTER 2

### MUNICIPAL BOND LAW

SECTION.

- 57-235. Bonds — Delegation authority.

**57-235. Bonds — Delegation authority.** — (1) Whenever the governing body of any public body shall deem it advisable to issue bonds under its lawful authority, then, subject to the limits of such authority, the governing body may delegate to a member of the governing body or to the chief executive officer or chief financial officer of the public body, in accordance with specific instructions and procedures adopted by the governing body in a resolution or ordinance authorizing the issuance of bonds, the determination of any or all of the following:

- (a) The rate of interest on the bonds;
- (b) The conditions on which and the prices at which the bonds may be redeemed prior to maturity;
- (c) The existence and amount of any capitalized interest or reserve funds;
- (d) The price at which the bonds shall be sold;
- (e) The principal amount and denominations of the bonds;
- (f) The amount of principal maturing in each year;
- (g) The dates upon which principal and interest shall be paid;
- (h) The maturities and amounts of the bonds to be refunded, if any; and
- (i) The terms of any contract to provide credit enhancement of the bonds.

(2) The designated member or officer or officers shall obtain terms for the items provided in paragraphs (a) through (i) of subsection (1) of this section that shall be consistent with, not in excess of and no less favorable than the terms as have been approved by the governing body and, if applicable in the case of bonds requiring voter approval, approved by the voters.

(3) Nothing herein shall confer upon any public body or the governing body, employees or agents thereof any additional powers not currently conferred under the laws and constitution of the state of Idaho with respect to issuance of bonds or any other matter, nor shall any limitation in the laws and constitution of the state of Idaho on the delegation of such powers be otherwise affected.

(4) For purposes of this section, the following terms shall have the following definitions:

(a) "Bond" or "bonds" means any revenue bond or general obligation bond, as those terms are defined in section 57-504, Idaho Code.

(b) "Governing body" means the council, commission, board of commissioners, board of directors, board of trustees, board of regents, members of an authority or other legislative body of a public body in which body the legislative powers of the public body are vested.

(c) "Public body" means the state of Idaho, its agencies, institutions, political subdivisions, school districts, authorities, instrumentalities, and municipal and quasi-municipal corporations now or hereafter existing under the laws of the state of Idaho.

(5) Any provision in this section providing that any action or thing shall be authorized, taken or done by ordinance or resolution shall be taken to mean that any such governing body shall proceed by ordinance or resolution as required or permitted by law or by the customary mode of proceeding by each such governing body, respectively, not forbidden by law.

**History.**

I.C., § 57-235, as added by 2014, ch. 251, § 4, p. 632.

**CHAPTER 7**

**INVESTMENT OF PERMANENT ENDOWMENT AND EARNINGS RESERVE FUNDS**

**57-715. Permanent endowment funds declared to be trust funds.**

**OPINIONS OF ATTORNEY GENERAL**

**Fees.**

As a condition of its investment through the credit enhancement program (CEP), the endowment fund investment board (EFIB) correctly imposed fees to offset the projected loss of return to the public school endowment

caused by the narrowing of investment opportunities, necessitated by the balancing of the investments represented by the CEP and the maximum long-term return to the endowment. OAG 10-1.

**57-723. Investment powers of the board — Application of Idaho uniform prudent investor act.**

**OPINIONS OF ATTORNEY GENERAL**

**Fees.**

As a condition of its investment through the credit enhancement program (CEP), the endowment fund investment board (EFIB) correctly imposed fees to offset the projected loss of return to the public school endowment

caused by the narrowing of investment opportunities, necessitated by the balancing of the investments represented by the CEP and the maximum long-term return to the endowment. OAG 10-1

**57-728. Credit enhancement program for school district bonds.****OPINIONS OF ATTORNEY GENERAL****Fees.**

As a condition of its investment through the credit enhancement program (CEP), the endowment fund investment board (EFIB) correctly imposed fees to offset the projected loss of return to the public school endowment

caused by the narrowing of investment opportunities, necessitated by the balancing of the investments represented by the CEP and the maximum long-term return to the endowment. OAG 10-1.

**CHAPTER 8****FUNDS CONSOLIDATION ACT****SECTION.**

57-811. Tax relief fund.

57-814. Budget stabilization fund.

**SECTION.**

57-818. Equine education account.

**57-811. Tax relief fund.** — There is hereby created in the state treasury, the tax relief fund to which shall be credited all moneys remitted from section 63-3638, Idaho Code, from federal grants, donations or moneys from any other source. Moneys in the fund are intended to fund future tax relief statutes enacted by the legislature and may be expended pursuant to appropriation. All interest earned on the investment of idle moneys in the fund shall be returned to the fund.

**History.**

I.C., § 57-811, as added by 2014, ch. 339,  
§ 1, p. 854.

**STATUTORY NOTES****Prior Laws.**

Former § 57-811, Consolidation into  
agency asset fund, as added by 1976, ch. 51,

§ 2, p. 152, was repealed by S.L. 1985, ch.  
195, § 2.

**57-814. Budget stabilization fund.** — (1) There is hereby created in the state treasury the budget stabilization fund for the purpose of meeting general fund revenue shortfalls and to meet expenses incurred as the result of a major disaster declared by the governor. All moneys in the budget reserve account at the date of approval of this act shall be transferred to the budget stabilization fund. Interest earnings from the investment of moneys in this fund by the state treasurer shall be credited to the permanent building account [permanent building fund] subject to the provisions of section 67-1210, Idaho Code.

(2) Subject to the requirements of section 63-3203, Idaho Code, the state controller shall annually transfer moneys from the general fund to the budget stabilization fund subject to the following criteria:

(a) If the state controller certifies that the receipts to the general fund for the fiscal year just ending have exceeded the receipts of the previous fiscal

year by more than four percent (4%), then the state controller shall transfer all general fund collections in excess of said four percent (4%) increase to the budget stabilization fund, up to a maximum of one percent (1%) of the actual general fund collections of the fiscal year just ending. The state controller shall make the transfers in four (4) equal amounts during September, December, March and June of the next fiscal year.

(b) The amount of moneys in the budget stabilization fund shall not exceed ten percent (10%) of the total general fund receipts for the fiscal year just ending.

(c) The state controller shall transfer moneys in the budget stabilization fund in excess of the limit imposed in subsection (2)(b) of this section to the general fund.

(3) If a majority of the membership of each house of the legislature adopt a concurrent resolution requesting the amount of the transfer specified in subsection (2) of this section be reduced, the state controller shall reduce the amount of the transfer.

(4) Appropriations of moneys from the budget stabilization fund in any year shall be limited to fifty percent (50%) after the fund balance has reached ten percent (10%).

**History.**

I.C., § 57-814, as added by 1984, ch. 249, § 13, p. 596; am. 1990, ch. 206, § 2, p. 463;

am. 1998, ch. 290, § 1, p. 927; am. 2000, ch. 280, § 1, p. 902; am. 2014, ch. 302, § 1, p. 754.

**STATUTORY NOTES**

**Cross References.**

General fund, § 67-1205.

**Amendments.**

The 2014 amendment, by ch. 302, substituted "ten percent (10%)" for "five percent (5%)" in paragraph (2)(b) and subsection (4).

**Compiler's Notes.**

The phrase "the date of the approval of this

act" in the second sentence in subsection (1) refers to the approval of S.L. 1998, ch. 290, which was approved by the governor on March 24, 1998, and effective July 1, 1999.

The bracketed insertion near the end of subsection (1) was added by the compiler to correct the name of the referenced fund. See § 57-1101 et seq.

**57-818. Equine education account.** — There is hereby created in the state treasury the equine education account. Moneys in the account shall be appropriated only to the university of Idaho social science research unit for the purpose of funding the Idaho horse census survey, and as provided for in this section. Each periodic update of the survey shall be initiated by the Idaho horse council and a negotiated contract agreed upon between the university of Idaho social science research unit and the Idaho horse council. The social science research unit will invoice the equine education account for distribution. Any unexpended appropriation balances after contractual obligations are satisfied may be expended on education or research projects by the university of Idaho as agreed upon by the Idaho horse council.

**History.**

I.C., § 57-818, as added by 1990, ch. 399,

§ 2, p. 1116; am. 1994, ch. 180, § 116, p. 420; am. 2014, ch. 47, § 1, p. 124.

STATUTORY NOTES

**Amendments.**

The 2014 amendment, by ch. 47, rewrote the section, which formerly read: "There is hereby created in the state treasury the equine education account. Moneys in the account may be appropriated only to the university of Idaho for its veterinary science program to be used specifically to enhance and forward the work conducted at the northwest equine reproduction laboratory, and as provided for in this section. In order for appropriated moneys to be expended, such moneys must be matched on a one-to-one match basis by contributions from private sources. Any

unencumbered or unexpended balances of appropriations at the end of a fiscal year shall be transferred to the public school income fund by the state controller."

**Compiler's Notes.**

For further information on the Idaho horse council, see <http://idahohorsecouncil.com/>. For further information on the university of Idaho social science research unit, see <http://web.cals.uidaho.edu/ssrul>.

**Effective Dates.**

Section 2 of S.L. 2014, ch. 47 declared an emergency. Approved March 11, 2014.

CHAPTER 12

TAYLOR GRAZING ACT FUNDS

**57-1201. Distribution of funds to counties by state treasurer.**

RESEARCH REFERENCES

**A.L.R.** — Construction and application of Taylor Grazing Act (43 U.S.C. §§ 315 et seq.) and regulations promulgated thereunder. 71 A.L.R. Fed. 2d 197.

CHAPTER 17

CENTRAL CANCER REGISTRY FUND

SECTION.  
57-1702. Cancer control fund.

**57-1702. Cancer control fund.** — There shall be established in the dedicated fund in the state treasury the cancer control fund, to which shall be credited the revenues derived from the tax distributed by subsection (b)(3) of section 63-2520, Idaho Code. All moneys now or hereafter in the cancer control fund, to the extent appropriated, are hereby dedicated for the purpose of contracting for and obtaining the services to promote cancer control for the citizens of Idaho, through research, education, screening and treatment. The director of the department of health and welfare is charged with the administration of moneys appropriated from the fund unless otherwise provided by law.

**History.**

I.C., § 57-1702, as added by 1979, ch. 33,

§ 1, p. 48; am. 1987, ch. 339, § 6, p. 715; am. 2014, ch. 115, § 4, p. 328.

### STATUTORY NOTES

#### Amendments.

The 2014 amendment, by ch. 115, substituted “cancer control fund” for “cancer control

account” in the section heading and throughout the section.

## CHAPTER 20

### TIME SENSITIVE EMERGENCY (TSE) REGISTRY

#### SECTION.

57-2001. Purpose of the registry.  
 57-2002. TSE registry — Definitions.  
 57-2003. Establishment of TSE registry.  
 57-2004. Participation in program.

#### SECTION.

57-2005. Creation of TSE registry fund — Purpose.  
 57-2006. Confidentiality.  
 57-2007. Liability.

**57-2001. Purpose of the registry.** — (1) The specific issues to be identified and evaluated through the TSE registry are:

- (a) Trauma, stroke and heart attack TSE surveillance;
- (b) Geographic patterns of trauma incidence;
- (c) Types of TSEs treated in hospitals in Idaho;
- (d) Areas or regions of the state where improvements in the emergency medical system may be needed;
- (e) Public education and prevention needs and efforts; and
- (f) Other factors to consider in recommending, designing or implementing a statewide TSE system.

(2) The data collected by the TSE registry shall be of such a nature as to allow the department to identify at least the following:

- (a) Lack of access to care and improvement of the availability and delivery of prehospital, hospital and post-acute TSE care;
- (b) Performance of the out-of-hospital and hospital emergency medical systems;
- (c) Costs of TSE care; and
- (d) Outcomes of persons who are victims of TSEs.

(3) The department shall evaluate the data collected, as well as data collected from other relevant sources, and, beginning one (1) year after the effective date of this chapter, shall prepare an annual report. The data shall be used to regularly produce and disseminate aggregated and de-identified analytical reports and for recommending benchmark quality measures and outcomes and needed educational resources to the TSE system of care state board.

#### History.

I.C., § 57-2001, as added by 2002, ch. 329, § 2, p. 928; am. 2014, ch. 147, § 9, p. 403.

### STATUTORY NOTES

#### Amendments.

The 2014 amendment, by ch. 147, substituted “TSE” or similar language for “trauma”

throughout the section; substituted “Trauma, stroke and heart attack TSE” for “Injury” in paragraph (1)(a); substituted “TSEs” for “In-

juries” in paragraph (1)(c); rewrote paragraph (2)(a), which formerly read: “Access to care”; and added the last sentence in subsection (3).

ter” in subsection (3) refers to the effective date of S.L. 2002, ch. 329, which was effective July 1, 2002.

**Compiler’s Notes.**

The phrase “the effective date of this chap-

**57-2002. TSE registry — Definitions. —** When used in this chapter:

(1) “Confidential information” means information which may identify a patient, health care facility or health care practitioner.

(2) “Contractor” means that individual, partnership, corporation or other entity performing TSE registry services under a contractual agreement with the department.

(3) “De-identified information” means records and information contained in the TSE registry, including compilations and analyses thereof that do not contain information which might identify a patient, health care facility or health care practitioner.

(4) “Department” means the bureau of emergency medical services and preparedness of the Idaho department of health and welfare.

(5) “Heart attack” means STEMI, which is a common name for ST-elevation myocardial infarction, a more precise definition for a type of heart attack that is caused by a prolonged period of blocked blood supply that affects a large area of the heart and has a substantial risk of death and disability calling for a quick response.

(6) “Stroke” means an interruption of blood flow to the brain causing paralysis, slurred speech and/or altered brain function usually caused by a blockage in a blood vessel that carries blood to the brain (ischemic stroke) or by a blood vessel bursting (hemorrhagic).

(7) “Trauma” is the result of an act or event that damages, harms or hurts a human being resulting in intentional or unintentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy or from the absence of such essentials as heat or oxygen.

(8) “TSE” means a time sensitive emergency, specifically trauma, heart attack or stroke.

(9) “TSE registry” means the population-based data system that provides ongoing and systematic collection, analysis, interpretation, and dissemination of information related to trauma, stroke and heart attack for system improvement, prevention and research activities. Elements in the registry shall describe the nature and scope of the injury, illness or health condition, identify the incidence and prevalence of traumatic injury, illness or health condition, severity of injury, performance of out-of-hospital and hospital emergency medical systems, patient outcome, and the impact of trauma, stroke and heart attack on the health care system.

(10) “TSE system” means the organized approach to treating injured patients that establishes and promotes standards for patient transportation, equipment, and information analysis for effective and coordinated TSE care. TSE systems represent a continuum of care that is fully integrated into the emergency medical services system and is a coordinated effort between out-of-hospital and hospital providers with the close cooperation of medical specialists in each phase of care. The focus is on prevention, coordination of

acute care, and aggressive rehabilitation. Systems are designed to be inclusive of all patients with a TSE requiring acute care facilities, striving to meet the needs of the patient, regardless of the severity of injury, geographic location or population density. A TSE system seeks to prevent injuries from happening and the reduction of death and disability when it does happen.

**History.**

I.C., § 57-2002, as added by 2002, ch. 329, § 2, p. 928; am. 2014, ch. 147, § 10, p. 403.

**STATUTORY NOTES**

**Amendments.**

The 2014 amendment, by ch. 147, substituted "TSE" for "trauma" throughout the section; inserted "and preparedness" in subsection (4); inserted subsections (5), (6) and (8) and redesignated the subsequent subsections accordingly; in present subsection (9), substituted "trauma, stroke and heart attack" for

"injury" in the first sentence and, in the second sentence, deleted "problem" following "scope of the injury", inserted "illness or health condition" twice and inserted "stroke and heart attack"; and, in present subsection (10), substituted "patients with a TSE" for "injured patient".

**57-2003. Establishment of TSE registry.** — The department, or an authorized contractor of the department, shall:

(1) Establish a TSE registry to collect and analyze information on the incidence, severity, causes and outcomes of TSEs, and other such data necessary to evaluate trauma, strokes and heart attacks and the health system's response to it;

(2) Establish the data elements and data dictionary, including child specific data elements that hospitals must report, and the time frame and format for reporting by adoption of rules in the manner provided in chapter 52, title 67, Idaho Code;

(3) Support, where necessary, data collection and abstraction by providing:

- (a) A data collection system and technical assistance to each hospital; and
- (b) Funding or, at the discretion of the department, personnel for collection and abstraction for each hospital.

**History.**

I.C., § 57-2003, as added by 2002, ch. 329, § 2, p. 928; am. 2014, ch. 147, § 11, p. 403.

**STATUTORY NOTES**

**Amendments.**

The 2014 amendment, by ch. 147, substituted "TSE" or similar language for "trauma"

in the section heading and subsection (1) and inserted "strokes and heart attacks" in subsection (1).

**57-2004. Participation in program.** — (1) Each licensed hospital shall report each case of TSE which meets the inclusion criteria to the department or the authorized contractor of the department within one hundred eighty (180) days of treatment.



(2) Each report of TSE shall include information as defined by the department.

(3) The department or authorized contractor of the department shall have physical access to all records which would identify reportable cases and/or establish characteristics, treatment or medical status of reportable cases in the event that there has been a failure to report as delineated in subsections (1) and (2) of this section.

(4) Nothing in this chapter shall prevent the department or authorized contractor from identifying and reporting cases using data linkages with death records, other registries, and other potential sources.

**History.**

I.C., § 57-2004, as added by 2002, ch. 329, § 2, p. 928; am. 2014, ch. 147, § 12, p. 403.

**STATUTORY NOTES**

**Amendments.**

The 2014 amendment, by ch. 147, substituted "TSE" for "trauma" in subsections (1)

and (2) and deleted "trauma" preceding "registries" in subsection (4).

**57-2005. Creation of TSE registry fund — Purpose.** — There is hereby created and established in the state treasury a fund to be known as the "Time Sensitive Emergencies (TSE) Registry Fund" to which shall be deposited the revenues derived from grants, appropriations or other sources of funds. All moneys now or hereafter in the TSE registry fund are hereby dedicated for the purpose of contracting for and obtaining the services of a continuous registry of all time sensitive emergency incident patients in the state of Idaho and maintaining a cooperative exchange of information with other states providing a similar TSE incident registry. The department of health and welfare, bureau of emergency medical services and preparedness, is charged with the administration of this fund for the purposes specified herein. All claims against the fund shall be examined, audited and allowed in the manner now or hereafter provided by law for claims against the state of Idaho.

**History.**

I.C., § 57-2005, as added by 2002, ch. 329, § 2, p. 928; am. 2014, ch. 147, § 13, p. 403.

**STATUTORY NOTES**

**Amendments.**

The 2014 amendment, by ch. 147, substituted "TSE" or similar language for "trauma"

in the section heading and throughout the section and inserted "and preparedness" in the third sentence.

**57-2006. Confidentiality.** — (1) Information and records contained in the TSE registry shall be kept confidential and may be released only as provided by this chapter and the rules of the department.

(2) The department and an authorized contractor may enter into agreements to exchange confidential information with other TSE registries in order to obtain complete reports of Idaho residents treated in other states

and to provide information to other states regarding their residents treated in Idaho. Agreements sharing information from the TSE registry shall include a provision requiring the receiving agency to keep such information confidential.

(3) The department and an authorized contractor may, in their discretion, publish or furnish to health researchers and the public de-identified information including compilations and analyses thereof.

(4) The department and an authorized contractor may furnish confidential information to other TSE registries, federal TSE programs, or health researchers in order to perform and collaborate with research studies. Persons and entities receiving confidential information for research purposes must comply with rules of the department relating to the confidentiality of TSE registry records and information.

(5) The department and an authorized contractor may furnish confidential information relating to a specific licensed hospital, including compilations and analyses of such confidential information, to the specific licensed hospital to which it relates.

(6) TSE registry records and information shall not be available for purposes of litigation except by order of the court. Any such order shall contain such protective provisions as are reasonable and necessary to prevent the public or further disclosure of the records and information and shall contain a provision requiring the destruction of the records and information when no longer needed for the litigation.

**History.**

I.C., § 57-2006, as added by 2002, ch. 329, § 2, p. 928; am. 2014, ch. 147, § 14, p. 403.

**STATUTORY NOTES**

**Amendments.**

The 2014 amendment, by ch. 147, substi-

tuted "TSE" for "trauma" throughout the section.

**57-2007. Liability.** — (1) No action for damages arising from the disclosure of confidential information may be maintained against any reporting entities or employees of such entities that participate in good faith in the reporting of TSE registry data in accordance with this chapter.

(2) No license of a health care facility or health care practitioner may be denied, suspended or revoked for the good faith disclosure of confidential information in accordance with this chapter.

(3) The immunity granted in subsections (1) and (2) of this section shall not be construed to apply to the unauthorized disclosure of confidential information when such disclosure is due to gross negligence or willful misconduct of the reporting entities.

**History.**

I.C., § 57-2007, as added by 2002, ch. 329, § 2, p. 928; am. 2014, ch. 147, § 15, p. 403.

**STATUTORY NOTES****Amendments.**

The 2014 amendment, by ch. 147, substituted "TSE" for "trauma" in subsection (1).





